

Title 24—HOUSING AND URBAN DEVELOPMENT

Chapter X—Federal Insurance Administration

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

PART 1914—AREAS ELIGIBLE FOR THE SALE OF INSURANCE

List of Eligible Communities

Section 1914.4 is amended by adding in alphabetical sequence a new entry to the table, which entry reads as follows:

§ 1914.4 List of eligible communities.

State	County	Location	Map No.	State map repository	Local map repository	Effective date of authorization of sale of flood insurance for area
***	***	***	***	***	***	***
California	Santa Barbara	Unincorporated area.				Dec. 23, 1971.
Kentucky	Jefferson	Jeffersontown				Do.
Minnesota	Yellow Medicine	Granite Falls				Do.
Missouri	Cape Girardeau	Cape Girardeau				Do.
Do.	St. Louis	Clayton				Do.
New Jersey	Union	Clark Township	I 34 039 0616 02 through I 34 039 0616 05	Department of Environment Protection, Division of Water Resources, Box 1390, Trenton, NJ 08625. New Jersey Department of Insurance, State House Annex, Trenton, N.J. 08625.	Office of the Township Engineer, Municipal Bldg., Westfield Ave., Clark, N.J. 07066.	Do.
Do.	Atlantic	Absecon City				Do.
New York	Nassau	Atlantic Beach				Do.
Do.	Erie	East Aurora				Do.
Oklahoma	Stephens	Comanche	I 40 137 1070 02 through I 40 137 1070 05	Oklahoma Water Resources Board, 2241 Northwest 40th St., Oklahoma City, OK 73112. Oklahoma Insurance Department, Room 408 Will Rogers Memorial Bldg., Oklahoma City, OK 73105.	City Hall, City of Comanche, Comanche, Okla. 73529.	Dec. 23, 1971.
Do.	Kingfisher	Kingfisher				Do.
Oregon	Douglas	Roseburg				Do.
Pennsylvania	Montgomery	West Norriton				Do.
Washington	Walla Walla	Unincorporated area.				Do.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968), effective Jan. 28, 1969 (33 F.R. 17804, Nov. 28, 1968), as amended (secs. 408-410, Public Law 91-152, Dec. 24, 1969), 42 U.S.C. 4001-4127; and Secretary's delegation of authority to Federal Insurance Administrator, 34 F.R. 2680, Feb. 27, 1969)

Issued: December 20, 1971.

GEORGE K. BERNSTEIN,
Federal Insurance Administrator.

[FR Doc.71-18845 Filed 12-27-71; 8:45 am]

PART 1915—IDENTIFICATION OF SPECIAL HAZARD AREAS

List of Communities With Special Hazard Areas

Section 1915.3 is amended by adding in alphabetical sequence a new entry to the table, which entry reads as follows:

§ 1915.3 List of communities with special hazard areas.

State	County	Location	Map No.	State map repository	Local map repository	Effective date of identification of areas which have special flood hazard:
California	Santa Barbara	Unincorporated areas				Dec. 23, 1971.
Kentucky	Jefferson	Jeffersonton				Do.
Minnesota	Yellow Medicine	Granite Falls				Do.
Missouri	Cape Girardeau	Cape Girardeau				Do.
Do.	St. Louis	Clayton				Do.
New Jersey	Union	Clark Township	H 34 039 0616 02 through H 34 039 0616 05	Department of Environment Protection, Division of Water Resources, Box 1390, Trenton, NJ 08625. New Jersey Department of Insurance, State House Annex, Trenton, N.J. 08625.	Office of the Township Engineer, Municipal Bldg., Westfield Ave., Clark, N.J. 07066.	July 11, 1970.
Do.	Atlantic	Absecon City				Dec. 23, 1971.
New York	Nassau	Atlantic Beach				Do.
Do.	Erle	East Aurora				Do.
Oklahoma	Stephens	Comanche	H 49 137 1070 02 through H 49 137 1070 05	Oklahoma Water Resources Board, 2241 Northwest 40th St., Oklahoma City, OK 73112. Oklahoma Insurance Department, Room 408, Will Rogers Memorial Bldg., Oklahoma City, Okla. 73105.	City Hall, City of Comanche, Comanche, Okla. 73529.	Mar. 6, 1971.
Do.	Kingfisher	Kingfisher				Dec. 23, 1971.
Oregon	Douglas	Roseburg				Do.
Pennsylvania	Montgomery	West Norriton				Do.
Washington	Walla Walla	Unincorporated areas				Do.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968), effective Jan. 28, 1969 (33 F.R. 17804, Nov. 28, 1968), as amended (secs. 408-410, Public Law 91-152, Dec. 24, 1969), 42 U.S.C. 4001-4127; and Secretary's delegation of authority to Federal Insurance Administrator, 34 F.R. 2680, Feb. 27, 1969)

Issued: December 20, 1971.

GEORGE K. BERNSTEIN,
Federal Insurance Administrator.

[FR Doc.71-18846 Filed 12-27-71;8:45 am]

Title 26—INTERNAL REVENUE

Chapter I—Internal Revenue Service,
Department of the Treasury

SUBCHAPTER A—INCOME TAX

[T.D. 7153]

PART 1—INCOME TAX; TAXABLE
YEARS BEGINNING AFTER DECEMBER 31, 1953

Information Required for Filing Elections To Amortize Certain Pollution Control Facilities

In order to extend the time for submitting certain information with an election under section 169 of the Internal Revenue Code of 1954, paragraph (a) of § 1.169-4 of the Income Tax Regulations (26 CFR Part 1) is hereby amended by revising subdivision (ix) of subparagraph (1) and by adding a new subparagraph (4). These revised and added provisions read as follows:

§ 1.169-4 Time and manner of making elections.

(a) Election of amortization—(1) In general. . . .

(ix) (a) A statement that the facility has been certified by the Federal certifying authority, together with a copy of such certification, and a copy of the application for certification which was filed

with and approved by the Federal certifying authority or (b), if the facility has not been certified by the Federal certifying authority, a statement that application has been made to the proper State certifying authority (see paragraph (c) (2) of § 1.169-2) together with a copy of such application and (except in the case of an election to which subparagraph (4) of this paragraph applies) a copy of the application filed or to be filed with the Federal certifying authority.

(4) Elections filed before February 29, 1972. If a statement of election required by subparagraph (1) of this paragraph is attached to a return (including an amended return referred to in subparagraph (2) of this paragraph) filed before February 29, 1972, such statement of election need not include a copy of the Federal application to be filed with the Federal certifying authority but a copy of such application must be filed no later than February 29, 1972, by the taxpayer with the district director, or with the director of the internal revenue service center, with whom the return or amended return referred to in this subparagraph was filed.

Because this Treasury decision amends existing regulations merely by postponing the last day for filing certain infor-

mation, it is hereby found unnecessary and impracticable to issue this Treasury decision with notice and public procedure thereon under 5 U.S.C. section 553(b), or subject to the effective date limitation of 5 U.S.C. section 553(d).

(Sec. 7805, Internal Revenue Code of 1954, 68A Stat. 917; 26 U.S.C. 7805)

[SEAL] JOHNNIE M. WALTERS,
Commissioner of Internal Revenue.

Approved: December 22, 1971.

EDWIN S. COHEN,
Assistant Secretary of the Treasury.

[FR Doc.71-18874 Filed 12-27-71;8:47 am]

[T.D. 7154]

PART 1—INCOME TAX; TAXABLE
YEARS BEGINNING AFTER DECEMBER 31, 1953

SUBCHAPTER F—PROCEDURE AND
ADMINISTRATION

PART 301—PROCEDURE AND
ADMINISTRATION

Bonds and Other Evidence of
Indebtedness

In order to revise the Income Tax Regulations (26 CFR Part 1) under sections 163, 451, 453, 454, 483, 591, 1016,

1037, 1232, and 6049 of the Internal Revenue Code of 1954 and in order to revise the Regulations on Procedure and Administration (26 CFR Part 301) under section 6049 of the Internal Revenue Code of 1954 the proposed amendments contained in a notice of proposed rule making published in the FEDERAL REGISTER on July 22, 1971 (36 F.R. 13605) are adopted with the changes noted below. The items being reserved below are not withdrawn. The changes read as follows:

PARAGRAPH 1. Paragraph (a) of § 1.163-4, as set forth in paragraph (2) of the appendix of the notice of proposed rule making, is changed by adding subparagraph (3).

PAR. 2. Paragraph (d) of § 1.1232-1, as set forth in paragraph 13 of the notice of proposed rule making, is changed, by adding a new sentence at the end thereof.

PAR. 3. The amendments to § 1.1232-3, as set forth in paragraph 15 of the notice of proposed rule making, are changed, by adding a new (d) to paragraph (b) (1) (iii), by reserving subdivision (iv) of paragraph (b) (1), and by reserving subdivision (iii) of paragraph (b) (2).

PAR. 4. Section 1.1232-3A, as set forth in paragraph 16 of the notice of proposed rule making, is changed, by reserving subdivision (iii) of paragraph (a) (1), by reserving Example (4) of paragraph (d), and by adding new subparagraphs (4), (5), and (6) to paragraph (e).

PAR. 5. The amendments to § 1.6049-1, as set forth in paragraph 19 of the notice of proposed rule making, are changed by revising paragraph (a) (1) (ii) and (iv), by adding a new subdivision (iv) to paragraph (a) (2), by revising paragraph (a) (5), and by revising paragraph (c) (2).

PAR. 6. The amendments to § 1.6049-2, as set forth in paragraph 20 of the notice of proposed rule making, is changed by revising paragraph (a) (1) and by adding a new paragraph (d).

PAR. 7. The amendments to § 1.6049-3, as set forth in the notice of proposed rule making, are changed.

[SEAL] JOHNNIE M. WALTERS,
Commissioner of Internal Revenue.

Approved: December 22, 1971.

EDWIN S. COHEN,
Assistant Secretary of the
Treasury.

PARAGRAPH 1. Section 1.163-3 is amended by revising the heading and by adding new paragraph (e) to read as follows:

§ 1.163-3 Deduction for discount on bonds issued on or before May 27, 1969.

(e) *Effective date.* The provisions of this section shall not apply in respect of a bond issued after May 27, 1969, unless issued pursuant to a written commitment which was binding on that date and at all times thereafter.

PAR. 2. The following new section is added immediately after § 1.163-3:

§ 1.163-4 Deduction for original issue discount on certain obligations issued after May 27, 1969.

(a) *In general.* (1) If an obligation is issued by a corporation with original issue discount, the amount of such discount is deductible as interest and shall be prorated or amortized over the life of the obligation. For purposes of this section the term "obligation" shall have the same meaning as in § 1.1232-1 (without regard to whether the obligation is a capital asset in the hands of the holder) and the term "original issue discount" shall have the same meaning as in section 1232(b)(1) (without regard to the one-fourth-of-1-percent limitation in the second sentence thereof). Thus, in general, the amount of original issue discount equals the excess of the amount payable at maturity over the issue price of the bond (as defined in paragraph (b)(2) of § 1.1232-3), regardless of whether that amount is less than one-fourth of 1 percent of the redemption price at maturity multiplied by the number of complete years to maturity. For the rule as to whether there is original issue discount in the case of an obligation issued in an exchange for property other than money, and the amount thereof, see paragraph (b)(2)(iii) of § 1.1232-3. In any case in which original issue discount is carried over from one corporation to another corporation under section 381(c)(9) or from an obligation exchanged to an obligation received in any exchange under paragraph (b)(1)(iv) of § 1.1232-3, such discount shall be carried over for purposes of this section. The amount of original issue discount carried over in an exchange of obligations under the preceding sentence shall be prorated or amortized over the life of the obligation received in such exchange. For computation of issue price and the amount of original issue discount in the case of serial obligations, see paragraph (b)(2)(iv) of § 1.1232-3.

(2) In the case of an obligation issued by a corporation as part of an investment unit (as defined in paragraph (b)(2)(ii)(a) of § 1.1232-3) consisting of an obligation and other property, the issue price of the obligation is determined by allocating the amount received for the investment unit to the individual elements of the unit in the manner set forth in paragraph (b)(2)(ii) of § 1.1232-3.

(3) *Recovery or retention of amounts previously deducted.* In any taxable year in which an amount of original issue discount which was deducted as interest under this section is retained or recovered by the taxpayer, such as, for example, by reason of a fine, penalty, forfeiture, or other withdrawal fee, such amount shall be includible in the gross income of such taxpayer for such taxable year.

(b) *Examples.* The rules in paragraph (a) of this section are illustrated by the following examples:

Example (1). N Corporation, which uses the calendar year as its taxable year, on Janu-

ary 1, 1970, issued for \$99,000, 9 percent bonds maturing 10 years from the date of issue, with a stated redemption price at maturity of \$100,000. The original issue discount on each bond (as determined under section 1232(b)(1) without regard to the one-fourth-of-1-percent limitation in the second sentence thereof) is \$1,000, i.e., redemption price, \$100,000, minus issue price, \$99,000. N shall treat \$1,000 as the total amount to be amortized over the life of the bonds.

Example (2). Assume the same facts as example (1), except that the bonds are convertible into common stock of N Corporation. Since the issue price of the bonds includes any amount attributable to the conversion privilege, the result is the same as in example (1).

Example (3). Assume the same facts as example (1), except that the bonds are issued as part of an investment unit consisting of an obligation and an option. Assume further that the issue price of the bonds as determined under the rules of allocation set forth in paragraph (b)(2)(ii) of § 1.1232-3 is \$94,000. The original issue discount on the bond (as determined under section 1232(b)(1) without regard to the one-fourth-of-1-percent limitation in the second sentence thereof) is \$6,000, i.e., redemption price, \$100,000, minus issue price, \$94,000. N shall treat \$6,000 as the total amount to be amortized over the life of the bonds.

Example (4). On January 1, 1971, a commercial bank which uses the calendar year as its taxable year, issued a certificate of deposit for \$10,000. The certificate of deposit is not redeemable until December 31, 1975, except in an emergency as defined in, and subject to the qualifications provided by, Regulations Q of the Board of Governors of the Federal Reserve. See 12 CFR § 217.4(d). The stated redemption price at maturity is \$13,382.26. The certificate is an obligation to which section 1232(a)(3)(A) applies (see paragraph (d) of § 1.1232-1), and the original issue discount with respect to the certificate (as determined under section 1232(b)(1) without regard to the one-fourth-of-1-percent limitation in the second sentence thereof) is \$3,382.26 (i.e., redemption price, \$13,382.26, minus issued price, \$10,000). Y shall treat \$3,382.26 as the total amount to be amortized over the life of the certificate.

(c) *Deduction upon repurchase.* [Reserved]

(d) *Effective date.* The provisions of this section shall apply in respect of obligations issued after May 27, 1969, other than—

(1) Obligations issued pursuant to a written commitment which was binding on May 27, 1969, and at all times thereafter, and

(2) Deposits made before January 1, 1971, in the case of certificates of deposit, time deposits, bonus plans, and other deposit arrangements with banks, domestic building and loan associations, and similar financial institutions.

PAR. 3. Section 1.451-1 is amended by adding new paragraph (d) immediately after paragraph (c) to read as follows:

§ 1.451-1 General rule for taxable year of inclusion.

(d) *Special rule for ratable inclusion of original issue discount.* For ratable inclusion of original issue discount in respect of certain corporate obligations issued after May 27, 1969, see section 1232(a)(3).

PAR. 4. Section 1.451-2 is amended by revising paragraph (b) to read as follows:

§ 1.451-2 Constructive receipt of income.

(b) *Examples of constructive receipt.*

Amounts payable with respect to interest coupons which have matured and are payable but which have not been cashed are constructively received in the taxable year during which the coupons mature, unless it can be shown that there are no funds available for payment of the interest during such year. Dividends on corporate stock are constructively received when unqualifiedly made subject to the demand of the shareholder. However, if a dividend is declared payable on December 31 and the corporation followed its usual practice of paying the dividends by checks mailed so that the shareholders would not receive them until January of the following year, such dividends are not considered to have been constructively received in December. Generally, the amount of dividends or interest credited on savings bank deposits or to shareholders of organizations such as building and loan associations or cooperative banks is income to the depositor or shareholders for the taxable year when credited. However, if any portion of such dividends or interest is not subject to withdrawal at the time credited, such portion is not constructively received and does not constitute income to the depositor or shareholder until the taxable year in which the portion first may be withdrawn. Accordingly, if, under a bonus or forfeiture plan, a portion of the dividends or interest is accumulated and may not be withdrawn until the maturity of the plan, the crediting of such portion to the account of the shareholder or depositor does not constitute constructive receipt. In this case, such credited portion is income to the depositor or shareholder in the year in which the plan matures. However, in the case of certain deposits made after December 31, 1970, in banks, domestic building and loan associations, and similar financial institutions, the ratable inclusion rules of section 1232(a)(3) apply. See § 1.1232-3A. Accrued interest on unwithdrawn insurance policy dividends is gross income to the taxpayer for the first taxable year during which such interest may be withdrawn by him.

PAR. 5. Paragraph (b) of § 1.453-1 is amended by adding a new subparagraph (3) immediately after subparagraph (2) to read as follows:

§ 1.453-1 Installment method of reporting income.

(b) *Income to be reported.*

(3) For purposes of section 453, any amount of original issue discount in respect of certain corporate obligations issued after May 27, 1969, as computed pursuant to paragraph (b)(2)(iii) of § 1.1232-3 (relating to obligations issued in exchange for property) shall not be included as part of the selling price or the total contract price.

PAR. 6. Paragraph (a) of § 1.454-1 is amended by revising the heading and subparagraph (1)(i) to read as follows:

§ 1.454-1 Obligations issued at discount.

(a) *Certain non-interest bearing obligations issued at discount—(1) Election to include increase in income currently.* If a taxpayer owns—

(i) A non-interest-bearing obligation issued at a discount and redeemable for fixed amounts increasing at stated intervals (other than an obligation issued by a corporation after May 27, 1969, as to which ratable inclusion of original issue discount is required under section 1232(a)(3)), or

PAR. 7. Section 1.483-1 is amended by revising paragraphs (b)(3) and (d)(3) to read as follows:

§ 1.483-1 Computation of interest on certain deferred payments.

(b) *Payments to which section 483 applies.*

(3) *Effect of other provisions of law.*

If there is total unstated interest under a contract, a portion of each payment to which section 483 applies shall be treated as interest to the extent provided in such section, notwithstanding that some other provision of law (for example, section 1245, relating to gain from dispositions of certain depreciable property) would, without regard to section 483, treat a portion of the payment as ordinary income or in some other manner. In such a case, section 483 shall apply first and the other provision of law shall apply only to the remainder of the payment not treated as interest under section 483. For example, if a portion of a payment is treated as interest under section 483 and such portion would otherwise be treated as gain from the sale or exchange of property which is not a capital asset under section 1232(a)(2)(B) (relating to corporate bonds issued on or before May 27, 1969, and Government bonds), section 483 shall apply first and section 1232(a)(2)(B) shall apply only to the remainder of the payment after the interest portion has been determined. In such case, in order to avoid a double inclusion in income, for purposes of section 1232(b) the "stated redemption price at maturity" shall be reduced by any amount treated as interest under section 483. If, however, with respect to an evidence of indebtedness issued by a corporation after May 27, 1969, any amount of original issue discount is ratably includible in the gross income of the holder under section 1232(a)(3), there will be no unstated interest to which section 483 applies since paragraph (d)(3) of this section provides for a zero test rate of interest for determining whether there is total unstated interest with respect to such an evidence of indebtedness.

(d) *Test of whether there is total interest under a contract.*

(3) *Test rate for certain obligations.* The test rate of interest for determining

whether there is total unstated interest shall be zero in the case of—

(i) A contract under which the purchaser is the United States, a State, or any other governmental body described in section 103 (relating to interest on certain governmental obligations), and under which the deferred payments are made pursuant to an obligation to which section 103 applies, or

(ii) An evidence of indebtedness which is issued after May 27, 1969, by a corporation in an exchange for property (other than money) which results under paragraph (b)(2)(iii) of § 1.1232-3 in creating original issue discount subject to ratable inclusion under section 1232(a)(3) in the holder's gross income.

PAR. 8. Section 1.591-1 is amended by revising so much of paragraph (b) as follows subparagraph (2) thereof to read as follows:

§ 1.591-1 Deduction for dividends paid on deposits.

(b) *Serial associations, bonus plans, etc.*

In any taxable year in which the right referred to in subparagraph (2) of this paragraph is exercised, there is includible in the gross income of such taxpayer for such taxable year amounts retained or recovered by the taxpayer pursuant to the exercise of such right. If the provisions of paragraph (a) of § 1.163-4 (relating to deductions for original issue discount) apply to deposits made with respect to a certificate of deposit, time deposit, bonus plan or other deposit arrangement, the provisions of this paragraph shall not apply.

PAR. 9. Section 1.1012-1 is amended by revising paragraph (d) to read as follows:

§ 1.1012-1 Basis of property.

(d) *Obligations issued as part of an investment unit.* For purposes of determining the basis of the individual elements of an investment unit (as defined in paragraph (b)(2)(ii)(a) of § 1.1232-3) consisting of an obligation and an option (which is not an excluded option under paragraph (b)(1)(iii)(c) of § 1.1232-3), security, or other property, the cost of such investment unit shall be allocated to such individual elements on the basis of their respective fair market values. In the case of the initial issuance of an investment unit consisting of an obligation and an option, security, or other property, where neither the obligation nor the option, security, or other property has a readily ascertainable fair market value, the portion of the cost of the unit which is allocable to the obligation shall be an amount equal to the issue price of the obligation as determined under paragraph (b)(2)(ii)(a) of § 1.1232-3.

PAR. 10. Section 1.1016-5 is amended by adding a new paragraph (s) immediately after paragraph (r), to read as follows:

§ 1.1016-5 Miscellaneous adjustments to basis.

(s) *Original issue discount.* In the case of certain corporate obligations issued at a discount after May 27, 1969, the basis shall be increased under section 1232(a)(3)(E) by the amount of original issue discount included in the holder's gross income pursuant to section 1232(a)(3).

PAR. 11. In order to change section 1232(a)(2)(A) and section 1232(a)(2)(B) (ii) wherever they appear in § 1.1037-1 to section 1232(a)(2)(B) and section 1232(a)(2)(B)(ii) respectively, paragraph (a) of § 1.1037-1 is amended by revising paragraph (d) of example (6) of subparagraph (3) and paragraph (d) of example (7) of subparagraph (3), and paragraph (b) of such section is amended by revising subparagraph (1), so much of subparagraph (2) as precedes subdivision (ii) thereof, paragraph (d)(2) of example (1) of subparagraph (4), paragraph (b)(2) of example (3) of subparagraph (4), paragraph (b)(2) of example (4) of subparagraph (4), paragraph (e) of example (5) of subparagraph (4), paragraphs (c) and (d) of example (1) of subparagraph (5), and paragraph (c) of example (4) of subparagraph (5). Such amended and revised provisions read as follows:

§ 1.1037-1 Certain exchanges of U.S. obligations.

(a) *Nonrecognition of gain or loss.* * * *

(3) *Illustrations.* * * *

Example (6). * * *

(d) On the sale of the new obligation D realizes a gain of \$45 (\$1,020 less \$975), all of which is recognized by reason of section 1002. Of this gain of \$45, the amount of \$35 is treated as ordinary income and \$10 is treated as long-term capital gain, determined as follows:

(1) Ordinary income under first sentence of sec. 1232(a)(2)(B) on sale of new obligation:	
Stated redemption price of new obligation at maturity.....	\$1,000
Less: Issue price of new obligation under sec. 1232(b)(2).....	930
Original issue discount on new obligation	70
Proration under sec. 1232(a)(2)(B) (ii): (\$70 × 60 months/120 months)	35
(2) Long-term capital gain (\$45 less \$35)	10

Example (7). * * *

(d) On the redemption of the new obligation D realizes a gain of \$25 (\$1,000 less \$975), all of which is recognized by reason of section 1002. Of this gain of \$25, the entire amount is treated as ordinary income, determined as follows:

Ordinary income under first sentence of sec. 1232(a)(2)(B) on redemption of new obligation:	
Stated redemption price of new obligation at maturity.....	\$1,000
Less: Issue price of new obligation under sec. 1232(b)(2).....	930
Original issue discount on new obligation	70

Proration under sec. 1232(a)(2)(B) (ii): (\$70 × 120 months/120 months), but such amount not to exceed the \$25 gain recognized on redemption 25

(b) *Application of section 1232 upon disposition or redemption of new obligation—(1) Exchanges involving nonrecognition of gain on obligations issued at a discount.* If an obligation, the gain on which is subject to the first sentence of section 1232(a)(2)(B), because the obligation was originally issued at a discount, is surrendered to the United States in exchange for another obligation and any part of the gain realized on the exchange is not then recognized because of the provisions of section 1037(a) (or because of so much of section 1031(b) as relates to section 1037(a)), the first sentence of section 1232(a)(2)(B) shall apply to so much of such unrecognized gain as is later recognized upon the disposition or redemption of the obligation which is received in the exchange as though the obligation so disposed of or redeemed were the obligation surrendered, rather than the obligation received, in such exchange. See the first sentence of section 1037(b)(1). Thus, in effect that portion of the gain which is unrecognized on the exchange but is recognized upon the later disposition or redemption of the obligation received from the United States in the exchange shall be considered as ordinary income in an amount which is equal to the gain which, by applying the first sentence of section 1232(a)(2)(B) upon the earlier surrender of the old obligation to the United States, would have been considered as ordinary income if the gain had been recognized upon such earlier exchange. Any portion of the gain which is recognized under section 1031(b) upon the earlier exchange and is treated at such time as ordinary income shall be deducted from the gain which is treated as ordinary income by applying the first sentence of section 1232(a)(2)(B) pursuant to this subparagraph upon the disposition or redemption of the obligation which is received in the earlier exchange. This subparagraph shall apply only in a case where on the exchange of United States obligations there was some gain not recognized by reason of section 1037(a) (or so much of section 1031(b) as relates to section 1037(a)); it shall not apply where only loss was unrecognized by reason of section 1037(a).

(2) *Rules to apply when a nontransferable obligation is surrendered in the exchange.* For purposes of applying both section 1232(a)(2)(B) and subparagraph (1) of this paragraph to the total gain realized on the obligation which is later disposed of or redeemed, if the obligation surrendered to the United States in the earlier exchange is a nontransferable obligation described in section 454 (a) or (c)—

(4) *Illustrations.* * * *

Example (1). * * *

(d) * * *

(2) Ordinary income under first sentence of sec. 1232(a)(2)(B), applying sec. 1037(b)(1)(B) to sale of new bond:

Stated redemption price of new bond at maturity.....	\$100.00
Less: Issue price of new bond under sec. 1037(b)(1)(B) (\$94.50 plus \$0 additional consideration paid on exchange).....	94.50

Original issue discount on new bond 5.50

Proration under sec. 1232(a)(2)(B) (ii): (\$5.50 × 0 months/120 months) 0

Example (3). * * *

(2) Ordinary income applicable to new bond (determined as provided in paragraph (d)(2) of example (1), except that the proration of the original issue discount under sec. 1232(a)(2)(B)(ii) amounts to \$1.10 (\$5.50 × 24 months/120 months)) 1.10

Example (4). * * *

(2) Ordinary income applicable to new bond (determined as provided in paragraph (d)(2) of example (1), except that the proration of the original issue discount under sec. 1232(a)(2)(B)(ii) amounts to \$5.50 (\$5.50 × 120 months/120 months)) 5.50

Example (5). * * *

(e) Under section 1037(b)(1)(B) the issue price of the series H bonds is \$10,000 (\$9,760 stated redemption price of the series E bond at time of exchange, plus \$240 additional consideration paid). Thus, with respect to the series H bond, there is no original issue discount to which section 1232(a)(2)(B) might apply.

(5) *Exchanges involving nonrecognition of gain or loss on transferable obligations issued at not less than par—* * * *

Example (1). * * *

(c) The basis of the new bond in A's hands, determined under section 1031(d), is \$85 (the same as that of the old bond). The issue price of the new bond for purposes of section 1232(a)(2)(B) is considered under section 1037(b)(2) to be \$100 (the same issue price as that of the old bond).

(d) * * *

(1) Ordinary income under first sentence of sec. 1232(a)(2)(B), applicable to old bond:

Stated redemption price of old bond at maturity.....	\$100
Less: Issue price of old bond	100
Original issue discount on old bond	0

(2) Ordinary income under first sentence of sec. 1232(a)(2)(B), applying sec. 1037(b)(2) to sale of new bond:

Stated redemption price of new bond at maturity	100
Less: Issue price of new bond under sec. 1037(b)(2)	100
Original issue discount on new bond	0

Example (4). . . .

(c) The basis of the new bond in B's hands, determined under section 1031(d), is \$1,000 (the same basis as that of the old bond). The issue price of the new bond for purposes of section 1232(a)(2)(B) is considered under section 1037(b)(2) to be \$1,000 (the same issue price as that of the old bond).

PAR. 12. Section 1.1232 is amended by revising subsections (a) and (b)(2) of section 1232 and the historical note to read as follows:

§ 1.1232 Statutory provisions; bonds and other evidences of indebtedness.

SEC. 1232. *Bonds and other evidences of indebtedness.*—(a) *General rule.* For purposes of this subtitle, in the case of bonds, debentures, notes, or certificates or other evidences of indebtedness, which are capital assets in the hands of the taxpayer, and which are issued by any corporation, or by any governmental or political subdivision thereof—

(1) *Retirement.* Amounts received by the holder on retirement of such bonds or other evidences of indebtedness shall be considered as amounts received in exchange therefor (except that in the case of bonds or other evidences of indebtedness issued before January 1, 1955, this paragraph shall apply only to those issued with interest coupons or in registered form, or to those in such form on March 1, 1954).

(2) *Sale or exchange.*—(A) *Corporate bonds issued after May 27, 1969.* Except as provided in subparagraph (C), on the sale or exchange of bonds or other evidences of indebtedness issued by a corporation after May 27, 1969, held by the taxpayer more than 6 months, any gain realized shall (except as provided in the following sentence) be considered gain from the sale or exchange of a capital asset held for more than 6 months. If at the time of original issue there was an intention to call the bond or other evidence of indebtedness before maturity, any gain realized on the sale or exchange thereof which does not exceed an amount equal to the original issue discount (as defined in subsection (b)) reduced by the portion of original issue discount previously includible in the gross income of any holder (as provided in paragraph (3)(B)) shall be considered as gain from the sale or exchange of property which is not a capital asset.

(B) *Corporate bonds issued on or before May 27, 1969, and government bonds.* Except as provided in subparagraph (C), on the sale or exchange of bonds or other evidences of indebtedness issued by a governmental or political subdivision thereof after December 31, 1954, or by a corporation after December 31, 1954, and on or before May 27, 1969, held by the taxpayer more than 6 months, any gain realized which does not exceed—

(i) An amount equal to the original issue discount (as defined in subsection (b)), or

(ii) If at the time of original issue there was no intention to call the bond or other evidence of indebtedness before maturity, an amount which bears the same ratio to the

original issue discount (as defined in subsection (b)) as the number of complete months that the bond or other evidence of indebtedness was held by the taxpayer bears to the number of complete months from the date of original issue to the date of maturity, shall be considered as gain from the sale or exchange of property which is not a capital asset. Gain in excess of such amount shall be considered gain from the sale or exchange of a capital asset held more than 6 months.

(C) *Exceptions.* This paragraph shall not apply to—

(i) Obligations the interest on which is not includible in gross income under section 103 (relating to certain governmental obligations), or

(ii) Any holder who has purchased the bond or other evidence of indebtedness at a premium.

(D) *Double inclusion in income not required.* This section shall not require the inclusion of any amount previously includible in gross income.

(3) *Inclusion in income of original issue discount on corporate bonds issued after May 27, 1969.*—(A) *General rule.* There shall be included in the gross income of the holder of any bond or other evidence of indebtedness issued by a corporation after May 27, 1969, the ratable monthly portion of original issue discount multiplied by the number of complete months (plus any fractional part of a month determined in accordance with the last sentence of this subparagraph) such holder held such bond or other evidence of indebtedness during the taxable year. Except as provided in subparagraph (B), the ratable monthly portion of original issue discount shall equal the original issue discount (as defined in subsection (b)) divided by the number of complete months from the date of original issue to the stated maturity date of such bond or other evidence of indebtedness. For purposes of this section, a complete month commences with the date of original issue and the corresponding day of each succeeding calendar month (or the last day of a calendar month in which there is no corresponding day); and, in any case where a bond or other evidence of indebtedness is acquired on any other day, the ratable monthly portion of original issue discount for the complete month in which such acquisition occurs shall be allocated between the transferor and the transferee in accordance with the number of days in such complete month each held the bond or other evidence of indebtedness.

(B) *Reduction in case of any subsequent holder.* For purposes of this paragraph, the ratable monthly portion of original issue discount shall not include an amount, determined at the time of any purchase after the original issue of such bond or other evidence of indebtedness, equal to the excess of—

(i) The cost of such bond or other evidence of indebtedness incurred by such holder, over

(ii) The issue price of such bond or other evidence of indebtedness increased by the portion of original discount previously includible in the gross income of any holder (computed without regard to this subparagraph),

divided by the number of complete months (plus any fractional part of a month commencing with the date of purchase) from the date of such purchase to the stated maturity date of such bond or other evidence of indebtedness.

(C) *Purchase defined.* For purposes of subparagraph (B), the term "purchase" means any acquisition of a bond or other evidence of indebtedness, but only if the basis of the bond or other evidence of indebtedness is not determined in whole or in part by reference

to the adjusted basis of such bond or other evidence of indebtedness in the hands of the person from whom acquired, or under section 1014(a) (relating to property acquired from a decedent).

(D) *Exceptions.* This paragraph shall not apply to any holder—

(i) Who has purchased the bond or other evidence of indebtedness at a premium, or

(ii) Which is a life insurance company to which section 818(b) applies.

(E) *Basis adjustments.* The basis of any bond or other evidence of indebtedness in the hands of the holder thereof shall be increased by the amount included in his gross income pursuant to subparagraph (A).

(b) *Definitions.* . . .

(2) *Issue price.* In the case of issues of bonds or other evidences of indebtedness registered with the Securities and Exchange Commission, the term "issue price" means the initial offering price to the public (excluding bond houses and brokers) at which price a substantial amount of such bonds or other evidences of indebtedness were sold. In the case of privately placed issues of bonds or other evidence of indebtedness, the issue price of each such bond or other evidence of indebtedness is the price paid by the first buyer of such bond increased by the amount, if any, of tax paid under section 4911 (and not credited, refunded, or reimbursed) on the acquisition of such bond or evidence of indebtedness by the first buyer. For purposes of this paragraph, the terms "initial offering price" and "price paid by the first buyer" include the aggregate payments made by the purchaser under the purchase agreement, including modifications thereof. In the case of a bond or other evidence of indebtedness and an option or other security issued together as an investment unit, the issue price for such investment unit shall be determined in accordance with the rules stated in this paragraph. Such issue price attributable to each element of the investment unit shall be that portion thereof which the fair market value of such element bears to the total fair market value of all the elements in the investment unit. The issue price of the bond or other evidence of indebtedness included in such investment unit shall be the portion so allocated to it. In the case of a bond or other evidence of indebtedness, or an investment unit as described in this paragraph (other than a bond or other evidence of indebtedness or an investment unit issued pursuant to a plan of reorganization within the meaning of section 368(a)(1) or an insolvency reorganization within the meaning of section 371, 373, or 374), which is issued for property and which—

(A) Is part of an issue a portion of which is traded on an established securities market, or

(B) Is issued for stock or securities which are traded on an established securities market,

the issue price of such bond or other evidence of the indebtedness or investment unit, as the case may be, shall be the fair market value of such property. Except in cases to which the preceding sentence applies, the issue price of a bond or other evidence of indebtedness (whether or not issued as a part of an investment unit) which is issued for property (other than money) shall be the stated redemption price at maturity.

[Sec. 1232 as amended by secs. 50 and 51, Technical Amendments Act of 1958 (72 Stat. 1642, 1643); sec. 3(e), Life Insurance Company Income Tax Act 1959 (73 Stat. 140); sec. 5, Interest Equalization Tax Act (78 Stat. 845); sec. 413 (a) and (b), Tax Reform Act 1969 (83 Stat. 609, 611)]

PAR. 13 Section 1.1232-1 is amended by revising paragraphs (a), (b), and (c), and by adding new paragraph (d) immediately after paragraph (c). These revised and added sections read as follows:

§ 1.1232-1 Bonds and other evidences of indebtedness; scope of section.

(a) *In general.* Section 1232 applies to any bond, debenture, note, or certificate or other evidence of indebtedness (referred to in this section and §§ 1.1232-2 through 1.1232-4 as an obligation) (1) which is a capital asset in the hands of the taxpayer, and (2) which is issued by any corporation, or by any government or political subdivision thereof. In general, section 1232(a)(1) provides that the retirement of an obligation, other than certain obligations issued before January 1, 1955, is considered to be an exchange and, therefore, is usually subject to capital gain or loss treatment. In general, section 1232(a)(2)(B) provides that in the case of a gain realized on the sale or exchange of certain obligations issued at a discount after December 31, 1954, which are either corporate bonds issued on or before May 27, 1969, or government bonds, the amount of gain equal to such discount or, under certain circumstances, the amount of gain equal to a specified portion of such discount, constitutes ordinary income. In the case of certain corporate obligations issued after May 27, 1969, in general, section 1232(a)(3) provides for the inclusion as interest in gross income of a ratable portion of original issue discount for each taxable year over the life of the obligation, section 1232(a)(3)(E) provides for an increase in basis equal to the original issue discount included in gross income, and section 1232(a)(2)(A) provides that any gain realized on such an obligation held more than 6 months shall be considered gain from the sale or exchange of a capital asset held more than 6 months. For the requirements for reporting original issue discount on certain obligations issued after May 27, 1969, see section 6049(a) and the regulations thereunder. Section 1232(c) treats as ordinary income a portion of any gain realized upon the disposition of (i) coupon obligations which were acquired after August 16, 1954, and before January 1, 1958, without all coupons maturing more than 12 months after purchase attached, and (ii) coupon obligations which were acquired after December 31, 1957, without all coupons maturing after the date of purchase attached.

(b) *Requirement that obligations be capital assets.* In order for section 1232 to be applicable, an obligation must be a capital asset in the hands of the taxpayer. See section 1221 and the regulations thereunder. Obligations held by a dealer in securities (except as provided in section 1236) or obligations arising from the sale of inventory or personal services by the holder are not capital assets. However, obligations held by a financial institution, as defined in section 582(c) (relating to treatment of losses and gains on bonds of certain financial institutions) for investment and not primarily for sale to customers

in the ordinary course of the financial institution's trade or business, are capital assets. Thus, with respect to obligations held as capital assets by such a financial institution which are corporate obligations to which section 1232(a)(3) applies, there is ratable inclusion of original issue discount as interest in gross income under paragraph (a) of § 1.1232-3A, and gain on a sale or exchange (including retirement) may be subject to ordinary income treatment under section 582(c) and paragraph (a) (1) of § 1.1232-3.

(c) [Reserved].

(d) *Certain deposits in financial institutions.* For purposes of section 1232, this section and §§ 1.1232-2 through 1.1232-4, the term "other evidence of indebtedness" includes certificates of deposit, time deposits, bonus plans, and other deposit arrangements with banks, domestic building and loan associations, and similar financial institutions. For application of section 1232 to such deposits, see paragraph (e) of § 1.1232-3A. However, section 1232, this section, and §§ 1.1232-2 through 1.1232-4 shall not apply to such deposits made prior to January 1, 1971. For treatment of renewable certificates of deposit, see paragraph (e)(4) of § 1.1232-3A.

PAR. 14. Section 1.1232-2 is amended by revising such section to read as follows:

§ 1.1232-2 Retirement.

Section 1232(a)(1) provides that any amount received by the holder upon the retirement of an obligation shall be considered as an amount received in exchange therefor. However, section 1232(a)(1) does not apply in the case of an obligation issued before January 1, 1955, which was not issued with interest coupons or in registered form on March 1, 1954. For treatment of gain on an obligation held by certain financial institutions, see section 582(c) and paragraph (a)(1)(iii) of § 1.1232-3.

PAR. 15. Section 1.1232-3 is amended by revising paragraph (a), paragraph (b)(1), paragraph (b)(2)(i) and (ii) (a) and (c), example (1) and part (1) of example (2) of paragraph (b)(2)(ii) (d), by adding new subdivisions (iii) and (iv) to paragraph (b)(2), by revising so much of paragraph (c) as precedes example (1) of such paragraph, and by revising paragraphs (d), (e) and (f). These revised and added provisions read as follows:

§ 1.1232-3 Gain upon sale or exchange of obligations issued at a discount after December 31, 1954.

(a) *General rule; sale or exchange—*
(1) *Obligations issued by a corporation after May 27, 1969—*(i) *General rule.* Under section 1232(a)(2)(A), in the case of gain realized upon the sale or exchange of an obligation issued at a discount by a corporation after May 27, 1969 (other than an obligation subject to the transitional rule of subparagraph (4) of this paragraph), and held by the taxpayer for more than 6 months—

(a) If at the time of original issue there was no intention to call the obli-

gation before maturity, such gain shall be considered as long-term capital gain, or

(b) If at the time of original issue there was an intention to call the obligation before maturity, such gain shall be considered ordinary income to the extent it does not exceed the excess of—

(1) An amount equal to the entire "original issue discount", over

(2) An amount equal to the entire "original issue discount" multiplied by a fraction the numerator of which is the sum of the number of complete months and any fractional part of a month elapsed since the date of original issue and the denominator of which is the number of complete months and any fractional part of a month from the date of original issue to the stated maturity date.

The balance, if any, of the gain shall be considered as long-term capital gain. The amount described in (2) of this subdivision (b) in effect reduces the amount of original issue discount to be treated as ordinary income under this subdivision (b) by the amounts previously includible (regardless of whether included) by all holders (computed, however, as to any holder without regard to any purchase allowance under paragraph (a)(2)(ii) of § 1.1232-3A and without regard to whether any holder purchased at a premium as defined in paragraph (d)(2) of § 1.1232-3).

(ii) *Cross references.* For definition of the terms "original issue discount" and "intention to call before maturity", see paragraph (b)(1) and (4) respectively of this section. For definition of the term "date of original issue", see paragraph (b)(3) of this section. For computation of the number of complete months and any fractional portion of a month, see paragraph (a)(3) of § 1.1232-3A.

(iii) *Effect of section 582(c).* Gain shall not be considered to be long-term capital gain under subdivision (1) of this subparagraph if section 582(c) (relating to treatment of losses and gains on bonds of certain financial institutions) applies.

(2) *Examples.* The provisions of subparagraph (1) of this paragraph may be illustrated by the following examples:

Example (1). On January 1, 1970, A, a calendar-year taxpayer, purchases at original issue for cash of \$7,600, M Corporation's 10-year, 5 percent bond which has a stated redemption price at maturity of \$10,000. On January 1, 1972, A sells the bond to B, for \$9,040. A has previously included \$480 of the original issue discount in his gross income (see example (1) of paragraph (d) of § 1.1232-3A) and increased his basis in the bond by that amount to \$8,080 (see paragraph (c) of § 1.1232-3A). Thus, if at the time of original issue there was no intention to call the bond before maturity, A's gain of \$960 (amount realized, \$9,040, less adjusted basis, \$8,080) is considered long-term capital gain.

Example (2). (1) Assume the same facts as in example (1), except that at the time of original issue there was an intention to call the bond before maturity. The amount of the entire gain includible by A as ordinary income under subparagraph (1)(i) of this paragraph is determined as follows:

(1) Entire original issue discount (stated redemption price at maturity, \$10,000, minus issue price, \$7,000)	\$2,400
(2) Less: Line (1), \$2,400, multiplied by months elapsed since date of original issue, 24, divided by months from such date to stated maturity date, 120	480
(3) Maximum amount includible by A as ordinary income	\$1,920

Since the amount in line (3) is greater than A's gain, \$960, A's entire gain is includible as ordinary income.

(ii) On January 1, 1979, B, a calendar-year taxpayer, sells the bond to C for \$10,150. Assume that B has included \$120 of original issue discount in his gross income for each taxable year he held the bond (see example (2) of paragraph (d) of § 1.1232-3A) and therefore increased his basis by \$840 (i.e., \$120 each year \times 7 years) to \$9,880. B's gain is therefore \$270 (amount realized, \$10,150, less basis, \$9,880). The amount of such gain includible by B as ordinary income under subparagraph (1)(i) of this paragraph is determined as follows:

(1) Entire original issue discount (as determined in part (i) of this example)	\$2,400
(2) Less: Line (1), \$2,400, multiplied by months elapsed since date of original issue, 108, divided by months from such date to stated maturity date, 120	\$2,160
(3) Maximum amount includible by B as ordinary income	\$240

Since the amount in line (3) is less than B's gain, \$270, only \$240 of B's gain is includible as ordinary income. The remaining portion of B's gain, \$30, is considered long-term capital gain.

(3) *Obligations issued by a corporation on or before May 27, 1969, and government obligations.* Under section 1232(a)(2)(B), if gain is realized on the sale or exchange after December 31, 1957, of an obligation held by the taxpayer more than 6 months, and if the obligation either was issued at a discount after December 31, 1954, and on or before May 27, 1969, by a corporation or was issued at a discount after December 31, 1954, by or on behalf of the United States or a foreign country, or a political subdivision of either, then such gain shall be considered ordinary income to the extent it does not exceed—

- An amount equal to the entire "original issue discount", or
- If at the time of original issue there was no intention to call the obligation before maturity, a portion of the "original issue discount" determined in accordance with paragraph (c) of this section,

and the balance, if any, of the gain shall be considered as long-term capital gain. For the definition of the terms "original issue discount" and "intention to call before maturity", see paragraph (b) (1) and (4) respectively of this section. See section 1037(b) and paragraph (b) of § 1.1037-1 for special rules which are applicable in applying section 1232(a)(2)(B) and this subparagraph to gain realized on the disposition or redemption of obligations of the United States which were received from the United States in an exchange upon which

gain or loss is not recognized because of section 1037(a) (or so much of section 1031 (b) or (c) as relates to section 1037(a)).

(4) *Transitional rule.* Subparagraph (3) of this paragraph (in lieu of subparagraph (1) of this paragraph) shall apply to an obligation issued by a corporation pursuant to a written commitment which was binding on May 27, 1969, and at all times thereafter.

(5) *Obligations issued after December 31, 1954, and sold or exchanged before January 1, 1958.* Gain realized upon the sale or exchange before January 1, 1958, of an obligation issued at a discount after December 31, 1954, and held by the taxpayer for more than 6 months, shall be considered ordinary income to the extent it equals a specified portion of the "original issue discount", and the balance, if any, of the gain shall be considered as long-term capital gain. The term "original issue discount" is defined in paragraph (b)(1) of this section. The computation of the amount of gain which constitutes ordinary income is illustrated in paragraph (c) of this section.

(6) *Obligations issued before January 1, 1955.* Whether gain representing original issue discount realized upon the sale or exchange of obligations issued at a discount before January 1, 1955, is capital gain or ordinary income shall be determined without reference to section 1232.

(b) *Definitions.*—(1) *Original issue discount.*—(i) *In general.* For purposes of section 1232, the term "original issue discount" means the difference between the issue price and the stated redemption price at maturity. The stated redemption price is determined without regard to optional call dates.

(ii) *De minimis rule.* If the original issue discount is less than one-fourth of 1 percent of the stated redemption price at maturity multiplied by the number of full years from the date of original issue to maturity, then the discount shall be considered to be zero. For example, a 10-year bond with a stated redemption price at maturity of \$100 issued at \$98 would be regarded as having an original issue discount of zero. Thus, any gain realized by the holder would be a long-term capital gain if the bond was a capital asset in the hands of the holder and held by him for more than 6 months. However, if the bond were issued at \$97.50 or less, the original issue discount would not be considered zero.

(iii) *Stated redemption price at maturity.*—(a) *Definition.* Except as otherwise provided in this subdivision (iii), the term "stated redemption price at maturity" means the amount fixed by the last modification of the purchase agreement, including dividends, interest, and any other amounts, however designated, payable at that time. If any amount based on a fixed rate of simple or compound interest is actually payable or will be treated as constructively received under section 451 and the regulations thereunder at fixed periodic intervals of 1

year or less during the entire term of the obligation, any such amount payable at maturity shall not be included in determining the stated redemption price at maturity. Thus, for example, assume that a note which promises to pay \$1,000 at the end of 3 years provides for additional amounts labeled as interest to be paid at the rate of \$50 at the end of the first year, \$50 at the end of the second year, and \$120 at the end of the third year. The stated redemption price at maturity will be \$1,070 since only \$50 of the \$120 payable at the end of the third year is based on a fixed rate of simple or compound interest. If, however, the \$120 were payable at the end of the second year, so that only \$50 in addition to principal would be payable at the end of the third year, then under the rule for serial obligations contained in subparagraph (2)(iv)(c) of this paragraph, the \$1,000 note is treated as consisting of two series. The first series is treated as maturing at the end of the second year at a stated redemption price of \$70. The second series is treated as maturing at the end of the third year at a stated redemption price of \$1,000. For the calculation of issue price and the allocation of original issue discount with respect to each such series, see example (3) of subparagraph (2)(iv)(f) of this paragraph.

(b) *Special rules.* In the case of face-amount certificates, the redemption price at maturity is the price as modified through changes such as extensions of the purchase agreement and includes any dividends which are payable at maturity. In the case of an obligation issued as part of an investment unit consisting of such obligation and an option (which is not excluded by (c) of this subdivision (iii)), security, or other property, the term "stated redemption price at maturity" means the amount payable on maturity in respect of the obligation, and does not include any amount payable in respect of the option, security, or other property under a repurchase agreement or option to buy or sell the option, security, or other property. For application of this subdivision to certain deposits in financial institutions, see paragraph (e) of § 1.1232-3A.

(c) *Excluded option.* An option is excluded by this subdivision (c) if it is an option to which paragraph (a) of § 1.61-15 applies or if it is an option, referred to in paragraph (a) of § 1.83-7, granted in connection with performance of services to which section 421 does not apply.

(d) *Obligation issued in installments.* If an obligation is issued by a corporation under terms whereby the holder makes installment payments, then the stated redemption price for each installment payment shall be computed in a manner consistent with the rules contained in subparagraph (2)(iv) of this paragraph for computing the issue price for each series of a serial obligation. For application of this subdivision (d) to certain open account deposit arrangements, see examples (1) and (2) of paragraph (e) (5) of § 1.1232-3A.

(iv) *Carryover of original issue discount.* [Reserved].

(2) *Issue price defined*—(i) *In general.* The term "issue price" in the case of obligations registered with the Securities and Exchange Commission means the initial offering price to the public at which price a substantial amount of such obligations were sold. For this purpose, the term "the public" does not include bond houses and brokers, or similar persons or organizations acting in the capacity of underwriters or wholesalers. Ordinarily, the issue price will be the first price at which the obligations were sold to the public, and the issue price will not change if, due to market developments, part of the issue must be sold at a different price. When obligations are privately placed, the issue price of each obligation is the price paid by the first buyer of the particular obligation, irrespective of the issue price of the remainder of the issue. In the case of an obligation issued by a foreign obligor, the issue price shall be increased by the amount, if any, of interest equalization tax paid under section 4911 (and not credited, refunded, or reimbursed) on the acquisition of the obligation by the first buyer. In the case of an obligation which is convertible into stock or another obligation, the issue price includes any amount paid in respect of the conversion privilege. However, in the case of an obligation issued as part of an investment unit (as defined in subdivision (ii) (a) of this subparagraph), the issue price of the obligation includes only that portion of the initial offering price or price paid by the first buyer properly allocable to the obligation under the rules prescribed in subdivision (ii) of this subparagraph. The terms "initial offering price" and "price paid by the first buyer" include the aggregate payments made by the purchaser under the purchase agreement, including modifications thereof. Thus, all amounts paid by the purchaser under the purchase agreement or a modification of it are included in the issue price (but in the case of an obligation issued as part of an investment unit, only to the extent allocable to such obligation under subdivision (ii) of this subparagraph), such as amounts paid upon face-amount certificates or installment trust certificates in which the purchaser contracts to make a series of payments which will be returnable to the holder with an increment at a later date.

(ii) *Investment units consisting of obligations and property*—(a) *In general.* An investment unit, within the meaning of this subdivision (ii) and for purposes of section 1232, consists of an obligation and an option, security, or other property. For purposes of this subparagraph, the initial offering price of an investment unit shall be allocated to the individual elements of the unit on the basis of their respective fair market values. However, if the fair market value of the option, security, or other property is not readily ascertainable (within the meaning of paragraph (c) of § 1.421-6), then the portion of the initial offering price or price paid by the first buyer of the unit which is allocable to the obligation issued as part of such unit shall be ascer-

tained as of the time of acquisition of such unit by reference to the assumed price at which such obligation would have been issued had it been issued apart from such unit. The assumed price of the obligation shall be ascertained by comparison to the yields at which obligations of a similar character which are not issued as part of an investment unit are sold in arm's length transactions, and by adjusting the price of the obligation in question to this yield. The adjustment may be made by subtracting from the face amount of the obligation the total present value of the interest foregone by the purchaser as a result of purchasing the obligation at a lower yield as part of an investment unit. In most cases, assumed price may also be determined in a similar manner through the use of standard bond tables. Any reasonable method may be used in selecting an obligation for comparative purposes. Obligations of the same grade and classification shall be used to the extent possible, and proper regard shall be given, with respect to both the obligation in question and the comparative obligation, to the solvency of the issuer, the nature of the issuer's trade or business, the presence and nature of security for the obligation, the geographic area in which the loan is made, and all other factors relevant to the circumstances. An obligation which is convertible into stock or another obligation must not be used as a comparative obligation (except where the investment unit contains an obligation convertible into stock or another obligation), since such an obligation would not reflect the yield attributable solely to the obligation element of the investment unit.

(c) *Cross references.* For rules relating to the deductibility by the issuing corporation of bond discount resulting from an allocation under the rule stated in (a) of this subdivision, see §§ 1.163-3 and 1.163-4. For rules relating to the basis of obligations and options, securities, or other property acquired in investment units, see § 1.1012-1(d). For rules relating to certain reporting requirements with respect to options acquired in connection with evidences of indebtedness and for the tax treatment of such options, see § 1.61-15, and section 1234 and the regulations thereunder. With respect to the tax consequences to the issuing corporation upon the exercise of options issued in connection with evidences of indebtedness to which this section applies, see section 1032 and the regulations thereunder.

(d) *Examples.* The application of the principles set forth in this subdivision (ii) may be illustrated by the following examples in each of which it is assumed that there was no intention to call the note before maturity:

Example (1). M Corporation is a small manufacturer of electronic components located in the southwestern United States. On January 1, 1969, in consideration for the payment of \$41,500, M issues to X its unsecured note for \$40,000 together with warrants to purchase 3,000 shares of M stock at \$10 per share at any time during the term

of the note. The note is payable in 4 years and provides for interest at the rate of 5 percent per year, payable semiannually. The fair market values of the note and the warrants are not readily ascertainable. Assume that companies in the same industry as M Corporation, and similarly situated both financially and geographically, are generally able to borrow money on their unsecured notes at an annual interest rate of 6 percent. Using a present value table, the calculation of the issue price of a 5 percent, 4 year, \$40,000 note, discounted to yield 6 percent compounded semiannually is made as follows:

(1) Semiannual interest period	(2) Amount payable at 5 percent	(3) Factor for present value discounted at 3 percent per period	(2)×(3) Present value of payment
1.....	\$1,000	0.9709	\$970.90
2.....	1,000	.9426	942.60
3.....	1,000	.9151	915.10
4.....	1,000	.8885	888.50
5.....	1,000	.8626	862.60
6.....	1,000	.8375	837.50
7.....	1,000	.8131	813.10
8.....	1,000	.7894	789.40
8.....	40,000	.7894	31,576.00

Total present value of note discounted
at 6 percent, compounded semiannu-
ally..... 38,595.70

The same result may be reached through the use of a standard bond table or by the following present value calculation:

Present value of annuity of \$1,000
payable over 8 periods at
3 percent per period = 1000
× 7.0197 = \$7,019.70
Add: Present value of principal
(as calculated above)..... 31,576.00
Total..... \$38,595.70

Accordingly, the assumed price at which M's note would have been issued had it been issued without stock purchase warrants, i.e., that portion of the \$41,500 price paid by X which is allocable to M's note, is \$38,596 (rounded). Since the price payable on redemption of M's note at maturity is \$40,000, the original issue discount on M's note is \$1,404 (\$40,000 minus \$38,596). Under the rules stated in § 1.163-3, M is entitled to a deduction, to be prorated or amortized over the life of the note, equal to this original issue discount on the note. The excess of the price for the unit over the portion of such price allocable to the note, \$2,904 (\$41,500 minus \$38,596), is allocable to and is the basis of the stock purchase warrants acquired by X in connection with M's note. Upon the exercise of X's warrants, M will be allowed no deduction and will have no income. Upon maturity of the note X will receive \$40,000 from M, of which \$1,404, the amount of the original issue discount, will be taxable as ordinary income. If X were to transfer the note at its face amount to A 2 years after the issue date, X would realize, under section 1232(a)(2)(B), ordinary income of \$702 (one-half of \$1,404).

Example (2). (1) On January 1, 1969, N Corporation negotiates with Y, a small business investment company, for a loan in the amount of \$51,500 in consideration of which N Corporation issues to Y its unsecured 5-year note for \$50,000, together with warrants to purchase 2,000 shares of N stock at \$5 per share at any time during the term of the note. The note provides for interest of 6 percent, payable semiannually. The fair market values of the note and warrants are

not readily ascertainable. The loan agreement between Y and N contains a provision, agreed to in arms-length bargaining between the parties, that a rate of 7 percent payable semiannually would have been applied to the loan if warrants were not issued as part of

the consideration for the loan. The issue price of the note is \$47,921 (rounded), determined with the use of a standard bond table, or computed in the manner illustrated in Example (1) or in the following alternative manner:

(1) Interest period	(2) Interest rate differential [deleted]	(3) Principal	(4) Interest foregone for period (½%)	(5) Factor for present value discounted at 3½ percent per period	(4)X(5) Present value of interest foregone
1	1% (7%-6%)	\$50,000	250	0.9662	\$241.55
2	1%	50,000	250	.9335	233.38
3	1%	50,000	250	.9019	225.48
4	1%	50,000	250	.8714	217.85
5	1%	50,000	250	.8420	210.50
6	1%	50,000	250	.8135	203.38
7	1%	50,000	250	.7860	196.50
8	1%	50,000	250	.7594	189.85
9	1%	50,000	250	.7337	183.43
10	1%	50,000	250	.7089	177.23

Total present value of interest foregone.....	\$2,079.15
Principal.....	50,000.00
Less: Total present value of interest foregone.....	2,079.15
Issue price.....	47,920.85

The calculation of present value of interest foregone may also be made as follows:

Present value of annuity of \$250 discounted for 10 periods at 3½ percent per period = $250 \times 8.3166 = \$2,079.15$.

The total present value of interest foregone, \$2,079, is also the original issue discount attributable to the note (\$50,000 - \$47,921). Under (b) of this subdivision, since the agreed assumed rate of interest of 7 percent is not more than 1 percentage point greater than the actual rate payable on the note, determination of the issue price of the note (and original issue discount) based upon such assumed rate will be presumed to be correct and will not be considered clearly erroneous, provided that both N and Y adhere to such determination. Under the rules in § 1.163-3, N is entitled to a deduction, to be prorated or amortized over the life of the note, equal to the original issue discount on the note. The excess of the price paid for the unit over the portion of such price allocable to the note, \$3,579 (\$51,500 - \$47,921) is allocable to and is the basis of the stock purchase warrants acquired by Y in connection with N's note. Upon the exercise or sale of the warrants by Y, N will be allowed no deduction and will have no income. Upon maturity of the note Y will receive \$50,000 from N, of which \$2,079, the amount of the original issue discount, will be taxable as ordinary income. If Y were to transfer the note at its face value to B 2½ years after the issue date, Y would

realize, under section 1232(a)(2)(B), ordinary income of \$1,039.50 (one-half of \$2,079).

Example (3). O Corporation is a small advertising company located in the northeastern United States. Z is a tax-exempt organization. In consideration for the payment of \$60,000, O issues to Z, in a transaction not within the scope of section 503(b), its unsecured 5-year note for \$60,000, together with warrants to purchase 6,000 shares of O stock at \$10 per share at any time during the term of the note. The note is subject to quarterly amortization at the rate of \$3,000 per quarter, and provides for interest on the outstanding unpaid balance at an annual rate of 6 percent payable quarterly (1½ percent per quarter). The fair market values of the notes and warrants are not readily ascertainable. The loan agreement between O and Z contains a recital that if the \$60,000 note had been issued without the warrants only \$45,000 would have been paid for it. An examination of relevant facts indicates that companies in the same industry as O Corporation, and similarly situated both financially and geographically, are able to borrow money on their unsecured notes at an annual interest cost of 8½ percent payable quarterly (2¼ percent per quarter). By reference to a present value table, it is found that the present value of O's note discounted to yield 8½ percent compounded quarterly is \$56,608 (rounded). The computation is as follows:

(1) Quarterly interest period	(2) Principal payable	(3) Interest payable (1½ percent)	(4) Total amount payable (2)+(3)	(5) Factor for present value discounted at 2¼ percent per quarter	(6) Present value of total payment (4)X(5)
1	\$3,000	\$900	\$3,900	0.9792	\$3,818.88
2	3,000	855	3,855	.9588	3,696.17
3	3,000	810	3,810	.9389	3,577.21
4	3,000	765	3,765	.9193	3,461.16
5	3,000	720	3,720	.9002	3,348.74
6	3,000	675	3,675	.8815	3,239.61
7	3,000	630	3,630	.8631	3,133.06
8	3,000	585	3,585	.8452	3,030.04
9	3,000	540	3,540	.8276	2,929.70
10	3,000	495	3,495	.8104	2,832.35
11	3,000	450	3,450	.7935	2,737.88
12	3,000	405	3,405	.7770	2,645.69
13	3,000	360	3,360	.7608	2,555.29
14	3,000	315	3,315	.7450	2,466.68
15	3,000	270	3,270	.7295	2,379.47
16	3,000	225	3,225	.7143	2,293.62
17	3,000	180	3,180	.6994	2,209.09
18	3,000	135	3,135	.6849	2,124.76
19	3,000	90	3,090	.6706	2,041.15
20	3,000	45	3,045	.6567	1,958.05
Total.....					56,608.19

This amount (\$56,608) is the assumed price at which the note would have been issued had it been issued without stock purchase warrants. The assumed price of \$45,000 agreed to by the parties is not presumed to be correct since it is less than the face value adjusted to a yield which is one percentage point greater than the actual rate of interest payable on the obligation. The parties did not have adverse interests in agreeing upon an assumed price (since an excessively large amount of original issue discount would benefit O, the borrower, without adversely affecting Z, an exempt organization which would pay no tax on original issue discount income), and the price agreed to appears to be clearly erroneous when compared to the \$56,608 assumed issue price determined under the principles of (a) of this subdivision. Since the maturity value of O's note is \$60,000, the original issue discount on O's note is \$3,392 (\$60,000 minus \$56,608). Under the rules in § 1.163-3, O is entitled to a deduction, to be prorated or amortized over the life of the note, equal to this original issue discount on the note. The excess of the price paid for the unit over the portion of such price allocable to the note, \$3,392 (\$60,000 minus \$56,608), is allocable to and is the basis of the stock purchase warrants acquired by Z in connection with O's note. Upon the exercise or sale of the warrants by Z, O will be allowed no deduction and will have no income.

(iii) Issuance for property after May 27, 1969 [Reserved].

(iv) Serial obligations—(a) In general. If an issue of obligations which matures serially is issued by a corporation, and if on the basis of the facts and circumstances in such case an independent issue price for each particular maturity can be established, then the obligations with each particular maturity shall be considered a separate series, and the obligations of each such series shall be treated as a separate issue with a separate issue price, maturity date, and stated redemption price at maturity. The ratable monthly portion of original issue discount attributable to each obligation within a particular series shall be determined and ratably included as interest in gross income under the rules of § 1.1232-3A.

(b) Issue price not independently established. If a separate issue price cannot be established with respect to each series of an issue of obligations which matures serially, the issue price for each obligation of each series shall be its stated redemption price at maturity minus the amount of original issue discount allocated thereto in accordance with (d) of this subdivision. The amount of original issue discount so allocated shall be ratably included as interest in gross income under rules of § 1.1232-3A.

(c) Single obligation rule. If a single corporate obligation provides for payments (other than payments which would not be included in the stated redemption price at maturity under subparagraph (1)(iii) of this paragraph) in two or more installments, the provisions of (b) of this subdivision shall be applied by treating such obligation as an issue of obligations consisting of more than one series each of which matures on the due date of each such installment payment.

(d) Allocation of discount. For purposes of (b) and (c) of this subdivision, the original issue discount with respect to

each series of an issue shall be the total original issue discount for the issue multiplied by a fraction—

(1) The numerator of which is the product of (i) the stated redemption price of such series and (ii) the number of complete years (and any fraction thereof) constituting the period for such series from the date of original issue (as defined in paragraph (b) (3) of this section) to its stated maturity date, and

(2) The denominator of which is the sum of the products determined in (1) of this subdivision (d) with respect to each such series.

If a series consists of more than one obligation, the original issue discount allocated to such series shall be apportioned to such obligations in proportion to the stated redemption price of each. Computations under this subdivision (d) may be made using periods other than years, such as, for example, months or periods of 3 months.

(e) *Effective date.* The provisions of this subdivision (iv) shall apply with respect to corporate obligations issued after July 22, 1971. However, no inference shall be drawn from the preceding sentence with respect to serial obligations issued prior to such date.

(f) *Examples.* The provisions of this subdivision (iv) may be illustrated by the following examples:

Example (1). On January 1, 1972, P Corporation issued a note with a total face value of \$100,000 to B for cash of \$94,000. The terms of the note provide that \$50,000 is payable on December 31, 1973, and the other \$50,000 on December 31, 1975. Each payment is treated as the stated redemption price of a series, and the total original issue discount with respect to the note, \$6,000, is allocated to each such series as follows:

Year of maturity	1973	1975	Total
(1) Stated redemption price.....	\$50,000	\$50,000	
(2) Multiply by years outstanding.....	2	4	
(3) Product of bond years.....	\$100,000	\$200,000	
(4) Sum of products.....			\$300,000
(5) Fractional portion of discount.....	\$100,000	\$200,000	
	\$300,000	\$300,000	
(6) Multiply line (5) by discount for entire issue.....	\$6,000	\$6,000	
(7) Discount for each series.....	\$2,000	\$4,000	
(8) Issue price (line (1), minus line (7)).....	\$48,000	\$46,000	

Example (2). Assume the same facts as in example (1) except that a separate note is issued for each payment. The result is the same as in example (1).

Example (3). On January 1, 1971, Y Bank, a corporation, issues a note to C for \$1,000 cash. The terms of the note provide that \$50 will be paid at the end of the first year, \$120 at the end of the second year, and \$1,050 at the end of the third year. Under (c) of this subdivision (iv), the \$1,000 note is treated as consisting of two series, the first of which matures at the end of the second year, and the second of which matures at the

end of the third year. The issue price and the allocation of original issue discount with respect to each series is computed as follows:

Year of maturity	1972	1973	Total
(1) Stated redemption price.....	\$70	\$1,000	
(2) Multiply by years outstanding.....	2	3	
(3) Product of bond years.....	\$140	\$3,000	
(4) Sum of products.....			\$3,140
(5) Fractional portion of discount.....	\$140	\$3,000	
	\$3,140	\$3,140	
(6) Multiply line (5) by discount for entire issue.....	\$70	\$70	
(7) Discount for each series.....	\$3.12	\$66.88	
(8) Issue price (line (1) minus line (7)).....	\$66.88	\$933.12	

(c) *Gain treated as ordinary income in certain cases; computation.* The amount of gain treated as ordinary income under paragraph (a) (3) (ii) or (5) of this section is computed by multiplying the original issue discount by a fraction, the numerator of which is the number of full months the obligation was held by the holder and the denominator of which is the number of full months from the date of original issue to the date specified as the redemption date at maturity. (See paragraph (b) (3) of this section for definition of "date of original issue".) The period that the obligation was held by the taxpayer shall include any period that it was held by another person if, under chapter 1 of the Code, for the purpose of determining gain or loss from a sale or exchange, the obligation has the same basis, in whole or in part, in the hands of the taxpayer as it would have in the hands of such other person. This computation is illustrated by the following examples:

(d) *Exceptions to the general rule—*

(1) *In general.* Section 1232(a) (2) (C) provides that section 1232(a) (2) does not apply (i) to obligations the interest on which is excluded from gross income under section 103 (relating to certain government obligations), or (ii) to any holder who purchases an obligation at a premium.

(2) *Premium.* For purposes of section 1232, this section, and § 1.1232-3A, "premium" means a purchase price which exceeds the stated redemption price of an obligation at its maturity. For purposes of the preceding sentence, if an obligation is acquired as part of an investment unit consisting of an option, security, or other property and an obligation, the purchase price of the obligation is that portion of the price paid or payable for the unit which is allocable to the obligation. The price paid for the unit shall be allocated to the individual elements of the unit on the basis of their respective fair market values. However, if the fair market value of the option,

security, or other property is not readily ascertainable (within the meaning of paragraph (c) of § 1.421-6), then the price paid for the unit shall be allocated in accordance with the rules under paragraph (b) (2) (ii) of this section for allocating the initial offering price of an investment unit to its elements. If, under chapter 1 of the Code, the basis of an obligation in the hands of the holder is the same, in whole or in part, for the purposes of determining gain or loss from a sale or exchange, as the basis of the obligation in the hands of another person who purchased the obligation at a premium, then the holder shall be considered to have purchased the obligation at a premium. Thus, the donee of an obligation purchased at a premium by the donor will be considered a holder who purchased the obligation at a premium.

(e) *Amounts previously includible in income.* Nothing in section 1232(a) (2) shall require the inclusion of any amount previously includible in gross income. Thus, if an amount was previously includible in a taxpayer's income on account of obligations issued at a discount and redeemable for fixed amounts increasing at stated intervals, or, under section 818(b) (relating to accrual of discount on bonds and other evidences of indebtedness held by life insurance companies), such amount is not again includible in the taxpayer's gross income under section 1232(a) (2). For example, amounts includible in gross income by a cash receipts and disbursements method taxpayer who has made an election under section 454 (a) or (c) (relating to accounting rules for certain obligations issued at a discount to which section 1232 (a) (3) does not apply) are not includible in gross income under section 1232 (a) (2). In the case of a gain which would include, under section 1232(a) (2), an amount considered to be ordinary income and a further amount considered long-term capital gain, any amount to which this paragraph applies is first used to offset the amount considered ordinary income. For example, on January 1, 1955, A purchases a 10-year bond which is redeemable for fixed amounts increasing at stated intervals. At the time of original issue, there was no intention to call the bond before maturity. The purchase price of the bond is \$75, which is also the issue price. The stated redemption price at maturity of the bond is \$100. A elects to treat the annual increase in the redemption price of the bond as income pursuant to section 454(a). On January 1, 1960, A sells the bond for \$90. The total stated increase in the redemption price of the bond which A has reported annually as income for the taxable years 1955 through 1959 is \$7. The portion of the original issue discount of \$25 attributable to this period is \$12.50, computed as follows:

60 (months bond is held by A)

120 (months from date of original issue to redemption date) \times \$25 (original issue discount)

However, \$7, which represents the annual stated increase taken into income, is offset against the amount of \$12.50, leaving \$5.50 of the gain from the sale to be treated as ordinary income.

(f) *Recordkeeping requirements.* In the case of any obligation held by a taxpayer which was issued at an original issue discount after December 31, 1954, the taxpayer shall keep a record of the issue price and issue date upon or with each obligation (if known to or reasonably ascertainable by him). If the obligation held by the taxpayer is an obligation of the United States received from the United States in an exchange upon which gain or loss is not recognized because of section 1037(a) (or so much of section 1031 (b) or (c) as relates to section 1037(a)), the taxpayer shall keep sufficient records to determine the issue price of such obligation for purposes of applying section 1037(b) and paragraphs (a) and (b) of § 1.1037-1 upon the disposition or redemption of such obligation. The issuer (or in the case of obligations first sold to the public through an underwriter or wholesaler, the underwriter or wholesaler) shall mark the issue price and issue date upon every obligation which is issued at an original issue discount after September 26, 1957, but only if the period between the date of original issue (as defined in paragraph (b) (3) of this section) and the stated maturity date is more than 6 months.

PAR. 16. The following new section is added immediately after § 1.1232-3:

§ 1.1232-3A Inclusion as interest of original issue discount on certain obligations issued after May 27, 1969.

(a) *Ratable inclusion as interest.*—(1) *General rule.* Under section 1232(a) (3), the holder of any obligation issued by a corporation after May 27, 1969 (other than an obligation issued by or on behalf of the United States or a foreign country, or a political subdivision of either) shall include as interest in his gross income an amount equal to the ratable monthly portion of original issue discount multiplied by the sum of the number of complete months and any fractional part of a month such holder held the obligation during the taxable year. For increase in basis for amounts included as interest in gross income pursuant to this paragraph, see paragraph (c) of this section. For requirements for reporting original issue discount, see section 6049(a) and the regulations thereunder.

(2) *Ratable monthly portion of original issue discount.*—(i) *General rule.* Except when subdivision (ii) of this subparagraph applies, the term "ratable monthly portion of original issue discount" means an amount equal to the original issue discount divided by the sum of the number of complete months (plus any fractional part of a month) beginning on the date of original issue

and ending the day before the stated maturity date of such obligation.

(ii) *Reduction for purchase allowance.* With respect to an obligation which has been acquired by purchase (within the meaning of subparagraph (4) of this paragraph), the term "ratable monthly portion of original issue discount" means the lesser of the amount determined under subdivision (i) of this subparagraph or an amount equal to—

(a) The excess (if any) of the stated redemption price of the obligation at maturity over its cost to the purchaser divided by

(b) The sum of the number of complete months (plus any fractional part of a month) beginning on the date of such purchase and ending the day before the stated maturity date of such obligation.

The amount of the ratable monthly portion within the meaning of this subdivision reflects a purchase allowance provided under section 1232(a) (3) (B) where a purchase is made at a price in excess of the sum of the issue price plus the portion of original issue discount previously includible (regardless of whether included) in the gross income of all previous holders (computed, however, as to such previous holders without regard to any purchase allowance under this subdivision and without regard to whether any previous holder purchased at a premium).

(iii) [Reserved].

(iv) *Cross references.* For definitions of the terms "original issue discount" and "date of original issue", see subparagraphs (1) and (3) respectively, of § 1.1232-3(b). For definition of the term "premium", see paragraph (d) (2) of § 1.1232-3.

(3) *Determination of number of complete months.*—(i) *In general.* For purposes of this section—

(a) A complete month and a fractional part of a month commence with the date of original issue and the corresponding day of each succeeding calendar month (or the last day of a calendar month in which there is no corresponding day).

(b) If an obligation is acquired on any day other than the date a complete month commences, the ratable monthly portion of original issue discount for the complete month in which the acquisition occurs shall be allocated between the transferor and the transferee in accordance with the number of days in such complete month each held the obligation.

(c) In determining the allocation under (b) of this subdivision, any holder may treat each month as having 30 days.

(d) The transferee, and not the transferor, shall be deemed to hold the obligation during the entire day on the date of acquisition, and

(e) The obligor will be treated as the transferee on the date of redemption.

(ii) *Example.* The provisions of this subparagraph may be illustrated by the following example:

Example. On February 22, 1970, A acquires an obligation of X Corporation for which February 1, 1970, is the date of original issue. B acquires the obligation on June 16, 1970. A does not choose to treat each month as having 30 days. Thus, A held the obligation for 3½ months during 1970, i.e., one-fourth of February (7/28 days), March, April, May, one-half of June (15/30 days). The ratable monthly portion of original issue discount for the obligation is multiplied by 3½ months to determine the amount included in A's gross income for 1970 pursuant to this paragraph.

(4) *Purchase.* For purposes of this section, the term "purchase" means any acquisition (including an acquisition upon original issue) of an obligation to which this section applies, but only if the basis of such obligation is not determined in whole or in part by reference to the adjusted basis of such obligation in the hands of the person from whom it was acquired or under section 1014 (a) (relating to property acquired from a decedent).

(b) *Exceptions.*—(1) *Binding commitment.* Section 1232(a) (3) shall not apply to any obligation issued pursuant to a written commitment which was binding on May 27, 1969, and at all times thereafter.

(2) *Exception for 1-year obligations.* Section 1232 (a) (3) shall not apply to any obligation in respect of which the period between the date of original issue (as defined in paragraph (b) (3) of § 1.1232-3) and the stated maturity date is 1 year or less. In such case, gain on the sale or exchange of such obligation shall be included in gross income as interest to the extent the gain does not exceed an amount equal to the ratable monthly portion of original issue discount multiplied by the sum of the number of complete months and any fractional part of a month such taxpayer held such obligation.

(3) *Purchase at a premium.* Section 1232(a) (3) shall not apply to any holder who purchased the obligation at a premium (within the meaning of paragraph (d) (2) of § 1.1232-3).

(4) *Life insurance companies.* Section 1232(a) (3) shall not apply to any holder which is a life insurance company to which section 818(b) applies. However, ratable inclusion of original issue discount as interest under section 1232(a) (3) is required by an insurance company which is subject to the tax imposed by section 821 or 831.

(c) *Basis adjustment.* The basis of an obligation in the hands of the holder thereof shall be increased by any amount of original issue discount with respect thereto included as interest in his gross income pursuant to paragraph (a) of this section. See section 1232(a) (3) (E). However, the basis of an obligation shall not be increased by any amount that was includible as interest in gross income under paragraph (a) of this section, but was not actually included by the holder in his gross income.

(d) *Examples.* The provisions of paragraphs (a) through (c) of this section may be illustrated by the following examples:

Example (1). On January 1, 1970, A, a calendar-year taxpayer, purchases at original issue, for cash of \$7,600, M Corporation's 10-year, 5-percent bond which has a stated redemption price of \$10,000. The ratable monthly portion of original issue discount, as determined under section 1232(a)(3) and this section, to be included as interest in A's gross income for each month he holds such bond is \$20, computed as follows:

Original issue discount (stated redemption price, \$10,000, minus issue price, \$7,600)	\$2,400
Divide by: Number of months from date of original issue to stated maturity date	120 months
Ratable monthly portion	\$20

Assume that A holds the bond for all of 1970 and 1971 and includes as interest in his gross income for each such year an amount equal to the ratable monthly portion, \$20, multiplied by the number of months he held the bond each such year, 12 months, or \$240. Accordingly, on January 1, 1972, A's basis in the bond will have increased under paragraph (c) of this section by the amount so included, \$480 (i.e., \$240 × 2), from his cost, \$7,600, to \$8,080. For results if A sells the bond on that date, see examples (1) and (2) of paragraph (a)(2) of § 1.1232-3.

Example (2). Assume the same facts as in example (1). Assume further that on January 1, 1972, A sells the bond to B, a calendar-year taxpayer for \$9,040.

Since B purchased the bond, he determines under paragraph (a)(2)(ii) of this section the amount of the ratable monthly portion he must include as interest in his gross income in order to reflect the amount of his purchase allowance (if any). B determines that his ratable monthly portion is \$10, computed as follows:

(1) Stated redemption price at maturity	\$10,000
(2) Minus: B's cost	\$9,040
(3) Excess	\$960
(4) Divide by: Number of months from date of purchase to stated maturity date	96 months
(5) Tentative ratable monthly portion	\$10
(6) Ratable monthly portion as computed in example (1)	\$20

Since line (5) is lower than line (6), B's ratable monthly portion is \$10. Accordingly, if B holds the bond for all of 1972, he must include \$120 (i.e., ratable monthly portion, \$10 × 12 months) as interest in his gross income.

Example (3). (1) Assume the same facts as in example (1). Assume further that on January 1, 1975, A sells the bond to B for \$10,150. Under the exception of paragraph (b)(3) of this section, B is not required to include any amount in respect of original issue discount as interest in his gross income since he has purchased the bond at a premium.

(2) On January 1, 1979, B sells the bond to C, a calendar-year taxpayer, for \$9,940. Since C is now the holder of the bond (and no exception applies to him), he must include as interest in his gross income the ratable monthly portion of original issue determined under section 1232(a)(3) and this section. Since C purchased the bond he determines under paragraph (a)(2)(ii) of this section

the amount of the ratable monthly portion he must include as interest in his gross income in order to reflect the amount of his purchase allowance (if any). C determines that his ratable monthly portion is \$5, computed as follows:

(1) Stated redemption price at maturity	\$10,000
(2) Minus: C's cost	\$9,940
(3) Excess	\$60
(4) Divide by: Number of months from date of purchase to stated maturity date	12 months
(5) Tentative ratable monthly portion	\$5
(6) Ratable monthly portion as computed in example (1)	\$20

Since line (5) is lower than line (6), C's ratable monthly portion is \$5. Accordingly, if C holds the bond for all of 1979, he must include \$60 (i.e., ratable monthly portion, \$5 × 12 months) as interest in his gross income. Upon maturity of the bond on January 1, 1980, C will receive \$10,000 from M, which under paragraph (c) of this section will equal his adjusted basis (the sum of his cost, \$9,940, plus original issue discount included as interest in his gross income, \$60).

Example (4). [Reserved].

(e) *Application of section 1232 to certain deposits in financial institutions and similar arrangements—(1) In general.* Under paragraph (d) of § 1.1232-1, the term "other evidence of indebtedness" includes certificates of deposit, time deposits, bonus plans, and other deposit arrangements with banks, domestic building and loan associations, and similar financial institutions.

(2) *Adjustments where obligation redeemed before maturity—(1) In general.* If an obligation described in subparagraph (1) of this paragraph is redeemed for a price less than the stated redemption price at maturity from a taxpayer who acquired the obligation upon original issue, such taxpayer shall be allowed as a deduction, in computing adjusted gross income, the amount of the original issue discount he included in gross income but did not receive (as determined under subdivision (ii) of this subparagraph). The taxpayer's basis of such obligation (determined after any increase in basis for the taxable year under section 1232(a)(3)(E) by the amount of original issue discount included in the holder's gross income under section 1232(a)(3)) shall be decreased by the amount of such adjustment.

(ii) *Computation.* The amount of the adjustment under subdivision (i) of this subparagraph shall be an amount equal to the excess (if any) of (a) the ratable monthly portion of the original issue discount included in the holder's gross income under section 1232(a)(3) for the period he held the obligation, over (b) the excess (if any) of the amount received upon the redemption over the issue price. Under paragraph (b)(1)(iii) (a) of § 1.1232-3, if any amount based on a fixed rate of simple or compound interest is actually payable or will be treated as constructively received under section 451 and the regulations thereunder at fixed periodic intervals of 1 year or less during the term of the obligation, any such amount payable upon redemp-

tion shall not be included in determining the amount received upon such redemption.

(iii) *Partial redemption.* (a) In the case of an obligation (other than a single obligation having serial maturity dates), if a portion of the obligation is redeemed prior to the stated maturity date of the entire obligation, the provisions of this subdivision shall be applied and not the provisions of subdivision (ii) of this subparagraph. In such case, the adjusted basis of the unredeemed portion of the obligation on the date of the partial redemption shall be an amount equal to the adjusted basis of the entire obligation on that date minus the amount paid upon the redemption.

(b) If the adjusted basis of the unredeemed portion (as computed under (a) of this subdivision) is equal to or in excess of the amount to be received for the unredeemed portion at maturity, no gain or loss shall be recognized at the time of the partial redemption but the holder shall be allowed a deduction, in computing adjusted gross income for the taxable year during which such partial redemption occurs, equal to the amount of such excess (if any), and no further original issue discount will be includible in the holder's gross income under section 1232(a)(3) over the remaining term of the unredeemed portion. In such case, the holder shall decrease his basis in the unredeemed portion (as computed under (a) of this subdivision) by the amount of such adjustment.

(c) If the adjusted basis of the unredeemed portion (as computed under (a) of this subdivision) is less than the redemption price of the unredeemed portion at maturity, a new computation shall be made under paragraph (a) of this section (without regard to the exception for one-year obligations in paragraph (b)(2) of this section) of the ratable monthly portion of original issue discount to be included as interest in the gross income of the holder over the remaining term of the unredeemed portion. For purposes of such computation, the adjusted basis of the unredeemed portion shall be treated as the issue price, the date of the partial redemption shall be treated as the issue date, and the amount to be paid for the unredeemed portion at maturity shall be treated as the stated redemption price.

(3) *Examples.* The application of section 1232 to obligations to which this paragraph applies may be illustrated by the following examples:

Example (1). A is a cash method taxpayer who uses the calendar year as his taxable year. On January 1, 1971, he purchases a certificate of deposit from X Bank, a corporation, for \$10,000. The certificate of deposit is not redeemable until December 31, 1975, except in an emergency as defined in, and subject to the qualifications provided by, Regulation Q of the Board of Governors of the Federal Reserve. See 12 CFR § 217.4(d). The stated redemption price at maturity is \$13,382.26. The terms of the certificate do not expressly refer to any amount as interest. A's certificate of deposit is an obligation to which section 1232 and this paragraph apply. A shall include the ratable portion of original issue discount in gross

income for 1971 as determined under section 1232(a)(3). Thus, if A holds the certificate of deposit for the full calendar year 1971, the amount to be included in A's gross income for 1971 is \$676.45, that is, 12/60 months, multiplied by the excess of the stated redemption price (\$13,382.26) over the issue price (\$10,000).

Example (2). Assume the same facts as in example (1), except that the certificate of deposit provides for payment upon redemption at December 31, 1975, of an amount equal to \$10,000, plus 6 percent compound interest from January 1, 1971, to December 31, 1975. Thus, the total amount payable upon redemption in both example (1) and this example is \$13,382.26. The certificate of deposit is an obligation to which section 1232 and this paragraph apply and, since the substance of the deposit arrangement is identical to that contained in example (1), A must include the same amount in gross income.

Example (3). Assume the same facts as in example (1), except that the certificate provides for the payment of interest in the amount of \$200 on December 31 of each year and \$2,000 plus \$10,000 (the original amount) payable upon redemption at December 31, 1975. Thus, if A holds the certificate of deposit for the full calendar year 1971, A must include in his gross income for 1971 the \$200 interest payable on December 31, 1971, and \$400 of original issue discount, that is, 12/60 months multiplied by the excess of the stated redemption price (\$12,000) over the issue price (\$10,000).

Example (4). B is a cash method taxpayer who uses the calendar year as his taxable year. On January 1, 1971, B purchases a 4-year savings certificate from the Y Building and Loan Corporation for \$4,000, redeemable on December 31, 1974, for \$5,000. On December 31, 1973, Y redeems the certificate for \$4,660. Under section 1232(a)(3), B included \$250 of original issue discount in his gross income for 1971, \$250 for 1972, and includes \$250 in his gross income for 1973 for a total of \$750. Since the excess of (1) the amount received upon the redemption, \$4,660, over (2) the issue price, \$4,000, or \$660, is lower than the total amount of original issue discount (\$750) included in B's gross income for the period he held the certificate by \$90, the \$90 will be treated under subparagraph (2) of this paragraph as a deduction in computing adjusted gross income, and accordingly, will decrease the basis of his certificate by such amount. B has no gain or loss upon the redemption, as determined in accordance with the following computation:

Adjusted basis January 1, 1973.....	\$4,500
Increase under section 1232(a)(3) (E)	250
Subtotal	4,750
Decrease under subparagraph (b)(2) of this paragraph	90
Basis upon redemption	4,660
Amount realized upon redemption	4,660
Gain or loss	0

Example (5). On January 1, 1971, C, a cash method taxpayer who uses the calendar year as his taxable year, opens a savings account in Z bank with a \$10,000 deposit. Under the terms of the account, interest is made available semiannually at 6 percent annual interest, compounded semiannually. Since all of the interest on C's account in Z bank is made available semiannually, the stated redemption price at maturity under paragraph (b)(1)(iii) (a) of § 1.1232-3 equals the issue price, and, therefore, no original issue discount is reportable by C under section 1232

(a)(3). However, C must include the sum of \$300 (i.e., $\frac{1}{2} \times 6\% \times \$10,000$) plus \$309 (i.e., $\frac{1}{2} \times 6\% \times \$10,300$) or \$609, of interest made available during 1971 in his gross income for 1971.

Example (6). (1) D is a cash method taxpayer who uses the calendar year as his taxable year. On January 1, 1971, D purchases a \$10,000 deferred income certificate from M Bank. Under the terms of the certificate, interest accrues at 6 percent per annum, compounded quarterly. The period of the account is 10 years. In addition, the holder is permitted to withdraw the entire amount of the purchase price at any time (but not interest prior to the expiration of the 10 year term), and upon such a withdrawal of the purchase price, no further interest accrues. If the certificate is held to maturity, the issue price plus accrued interest will aggregate \$18,140.18.

(ii) In respect of the certificate, the original issue discount is \$8,140.18, determined by subtracting the issue price of the certificate (\$10,000) from the stated redemption price at maturity (\$18,140.18). Thus, under section 1232(a)(3) the ratable monthly portion of original issue discount is \$67.835 (i.e., 1/120 months, multiplied by \$8,140.18). Under section 1232(a)(3), D includes \$814.02 (i.e., 12 months, multiplied by \$67.835) in his gross income for each calendar year the certificate remains outstanding and under section 1232(a)(3)(E) increases his basis by that amount. Thus, on December 31, 1975, D's basis for the certificate is \$14,070.10 (i.e., issue price, \$10,000, increased by product of \$814.02 \times 5 years).

(iii) On December 31, 1975, D withdraws the \$10,000. Under the terms of the certificate \$3,468.55 cannot be withdrawn until December 31, 1980. Under the provisions of subparagraph (2)(iii) of this paragraph, the \$10,000 partial redemption shall be treated as follows:

(1) Adjusted basis of obligation at time of partial redemption...	\$14,070.10
(2) Amount paid upon redemption	10,000.00
(3) Adjusted basis of unredeemed portion (line (1) less line (2))	4,070.10
(4) Amount to be paid for unredeemed portion at maturity (December 31, 1980)	3,468.55
(5) Adjustment in computing adjusted gross income (excess of line (3) over line (4))	601.55

Since the adjusted basis of the unredeemed portion exceeds the amount to be received for the unredeemed portion at maturity, D is allowed a deduction, in computing adjusted gross income, of \$601.55 in 1975 and no further original issue discount is includible as interest in his gross income. In addition, D will decrease his basis in the unredeemed portion by \$601.55, the amount of such adjustment, from \$4,070.10 to \$3,468.55.

Example (7). E is a cash method taxpayer who uses the calendar year as his taxable year. On January 1, 1971, E purchases a \$10,000 "Bonus Savings Certificate" from N Building and Loan Corporation. Under the terms of the certificate, interest is payable at 5 percent per annum, compounded quarterly, and the period of the account is 3 years. In addition, the certificate provides that if the holder makes no withdrawals of principal or interest during the term of the certificate, a bonus payment equal to 5 percent of the purchase price of the certificate will be paid to the holder of the certificate at maturity. Thus, the amount of the bonus payment is \$500 (i.e., 5 percent multiplied by \$10,000). Since the 5 percent annual interest is payable quarterly, the amount of such interest is

not included in determining the stated redemption price at maturity under paragraph (b)(1)(iii) of § 1.1232-3. However, since the bonus payment is only payable at maturity, the amount of such bonus is included as part of the stated redemption price at maturity. Thus, the stated redemption price at maturity equals \$10,500 (purchase price, \$10,000, plus bonus payment, \$500). Accordingly, the original issue discount attributable to such certificate equals \$500 (stated redemption price at maturity, \$10,500, minus issue price, \$10,000). Therefore, E must include as interest \$166.67 (i.e., 12/36 months, multiplied by the original issue discount, \$500) in his gross income for each taxable year he holds the certificate.

(4) Renewable certificates of deposit—

(i) *In general.* The renewal of a certificate of deposit shall be treated as a purchase of the certificate on the date the renewal period begins regardless of any requirement pursuant to the terms of the certificate that the holder give notice of an intention to renew or not to renew. Thus, for example, in the case of a certificate of deposit for which a renewal period begins after December 31, 1970, such renewal shall be treated as a purchase after such date whether or not the initial period began before such date.

(ii) *Computation.* For purposes of computing the amount of original issue discount to be ratably included as interest in gross income under section 1232(a)(3) in respect of a renewable certificate of deposit for the initial period or any renewal period, the following rules apply:

(a) The issue price on the date any renewal period begins is considered to be in the case of a certificate of deposit initially purchased—

(1) After December 31, 1971, the adjusted basis of the certificate on the date such period begins.

(2) Before January 1, 1971, the amount the adjusted basis would have been on the date such period begins had the holder included all amounts of original issue discount as interest in gross income that would have been includible if section 1232(a)(3) had applied to the certificate from the date of original purchase.

Thus, if under the terms of the certificate, no amount is forfeited upon a failure to renew, then the issue price on the date any renewal period begins is considered to be the amount which would have been received by the holder on such date had it not been renewed.

(b) The date of original issue for any renewal period shall be considered to be the date it begins.

(c) The date of maturity for the initial period or any renewal period shall be considered to be the date it ends.

(d) The stated redemption price at maturity for the initial period or any renewal period shall be considered to be an amount determined in a manner consistent with (a) of this subdivision.

(iii) *Application of 1-year rule.* For purposes of paragraph (b)(2) of this section (relating to nonapplication of section 1232(a)(3) to any obligation having a term of 1 year or less), the period between the date of original issue (as defined in paragraph (b)(3) of § 1.1232-3)

of a renewable certificate of deposit and its stated maturity date shall include all renewal periods with respect to which, under the terms of the certificate, the holder may either take action or refrain from taking action which would prevent the actual or constructive receipt of any interest on such certificate until the expiration of any such renewal period whether or not the original date of issue is prior to January 1, 1971.

(iv) *Examples.* The provisions of this subparagraph may be illustrated by the following example:

Example. (a) On May 1, 1969, A purchases a 2-year renewable certificate of deposit from M bank, a corporation, for \$10,000. Interest will be compounded semiannually at 6 percent on May 1 and November 1. The terms of the certificate provide that such certificate will be automatically renewed on the anniversary date every 2 years if the holder does not notify M of an intention not to renew prior to 60 days before the particular anniversary date. Thus, on May 1, 1971, and May 1, 1973, the certificate may be redeemed for \$11,255.09 and \$12,667.60, respectively. However, in no event shall the initial period and the renewal periods exceed 10 years. A does not notify M of an intention not to renew by March 1, 1971, and the certificate is automatically renewed for an additional 2-year period on May 1, 1971.

(b) Under subdivision (i) of this subparagraph, the May 1, 1971, renewal shall be treated as the purchase of a certificate of deposit on that date, i.e., after December 31, 1970. Under subdivision (ii) of this subparagraph, the issue price is considered to be \$11,255.09 and the date of maturity is considered to be May 1, 1973. Since the stated redemption price at maturity is \$12,667.60, A must include \$58.85 as interest in gross income for each month he holds the certificate during the renewal period beginning May 1, 1971, computed as follows:

Original issue discount (stated redemption price, \$12,667.60, minus issue price, \$11,255.09) . . . \$1,412.51
Divided by: Number of months from renewal to maturity date . . . 24 months

Ratable monthly portion . . . \$58.85

(5) *Time deposit open account arrangements—(i) In general.* The term "time deposit open account arrangement" means an arrangement with a fixed maturity date where deposits may be made from time to time and ordinarily no interest will be paid or constructively received until such fixed maturity date. All deposits pursuant to such an arrangement constitute parts of a single obligation. The amount of original issue discount to be ratably included as interest in his gross income of the depositor for any taxable year shall be the sum of the amounts separately computed for each deposit. For this purpose, the issue price for a deposit is the amount thereof and the stated redemption price at maturity is computed under paragraph (b) (1) (iii) (d) of § 1.1232-3.

(ii) *Examples.* The provisions of this subparagraph may be illustrated by the following examples:

Example (1). (i) F is a cash method taxpayer who uses the calendar year as his taxable year. On December 1, 1970, F enters into a 5-year deposit open account arrangement with M Savings and Loan Corp. The terms of the arrangement provide that F will deposit \$100 each month for a period of 5 years, and that interest will be compounded semiannually (on June 1 and December 1) at

percent, but will be paid only at maturity. Thus, assuming F makes deposits of \$100 on the first of each month beginning with December 1, 1970, the account will have a stated redemption price of \$6,998.20 at maturity on December 1, 1975. Since, however, section 1232 applies only to deposits made after December 31, 1970 (see paragraph (d) of § 1.1232-1), the \$34.39 of compound interest

to be earned on the first deposit of \$100 over the term of the arrangement will not be subject to the ratably inclusion rules of section 1232(a)(3). F must include such \$34.39 of interest in his gross income on December 1, 1975, the date it is paid.

(ii) For 1971, F must include \$44.19 of original issue discount as interest in gross income, to be computed as follows:

(1) Date of \$100 deposit	(2) Months to maturity	(3) Redemption price at maturity	(4) Original issue discount (col. 3-\$100)	(5) Ratable monthly portion (col. 4÷col. 2)	(6) Months on deposit in 1971	(7) 1971 original issue discount (col. 5×col. 6)
1-1-71	60	\$133.73	\$33.73	\$0.5717	12	\$6.86
2-1-71	58	133.07	33.07	.5702	11	6.27
3-1-71	57	132.42	32.42	.5688	10	5.69
4-1-71	56	131.77	31.77	.5673	9	5.11
5-1-71	55	131.12	31.12	.5658	8	4.53
6-1-71	54	130.48	30.48	.5644	7	3.95
7-1-71	53	129.84	29.84	.5630	6	3.38
8-1-71	52	129.20	29.20	.5615	5	2.81
9-1-71	51	128.56	28.56	.5600	4	2.24
10-1-71	50	127.93	27.93	.5586	3	1.68
11-1-71	49	127.30	27.30	.5571	2	1.11
12-1-71	48	126.68	26.68	.5558	1	0.56
Total original issue discount to be included as interest in F's gross income for 1971 . . .						\$44.19

Example (2). (i) G is a cash method taxpayer who uses the calendar year as his taxable year. On February 1, 1971, G enters into a 4-year deposit open account arrangement with T Bank, a corporation. The terms of the deposit arrangement provide that G may deposit any amount from time to time in multiples of \$50 for a period of 4 years. The terms also provide that G may not redeem any amount until February 1, 1975, except in an emergency as defined in, and subject to the qualifications provided by, Regulation Q

of the Board of Governors of the Federal Reserve System. See 12 CFR § 217.4(d). Interest will be compounded semiannually (on February 1 and August 1) at 6 percent, providing there is no redemption prior to February 1, 1975. However, if there is a redemption prior to such date, interest will be compounded semiannually at 5½ percent.

(ii) The schedule of deposits made by G pursuant to the arrangement, and computation of ratably monthly portion for each deposit, is set forth in the table below:

(1) Date of deposit	(2) Months to maturity	(3) Amount of deposit	(4) Redemption price at maturity	(5) Original issue discount (Col. 4-Col. 3)	(6) Ratable monthly portion (Col. 5÷Col. 2)
2-1-71	48	\$100	\$126.68	\$ 26.68	\$0.5558
6-1-71	44	200	248.42	48.42	1.1004
12-1-71	38	500	602.95	102.95	2.7092
2-1-72	36	800	953.24	153.24	4.2562
3-1-72	35	800	960.56	160.56	4.3017
7-1-72	31	600	699.00	99.00	3.1935
8-1-72	30	250	289.82	39.82	1.3273

(iii) With respect to amounts on deposit pursuant to the arrangement, the amounts of original issue discount G must include as interest in his gross income for 1971 and 1972 are computed in the table below:

(1) Date of deposit	(2) Ratable monthly portion	(3) Months on deposit in 1971	(4) 1971 original issue discount (Col. 2× Col. 3)	(5) Months on deposit in 1972	(6) 1972 original issue discount (Col. 2× Col. 5)
2-1-71	\$0.5558	11	\$6.11	12	\$6.67
6-1-71	1.1004	7	7.70	12	13.21
12-1-71	2.7092	1	2.71	12	32.51
2-1-72	4.2562			11	47.43
3-1-72	4.3017			10	43.02
7-1-72	3.1935			6	19.16
8-1-72	1.3273			5	6.64
Total original issue discount includible as interest in gross income for taxable year . . .			16.52		168.64

(6) *Certain contingent interest arrangements—(i) In general.* If under the terms of a deposit arrangement—

(a) The holder cannot receive payment of any interest or constructively receive any interest prior to a fixed maturity date,

(b) Interest is earned at a guaranteed minimum rate of compound interest,

(c) Additional contingent interest may be earned for any year at a rate not to

exceed one percentage point above such guaranteed minimum rate, and

(d) Any additional contingent interest is credited at least annually to the depositor's account,

Then any contingent interest credited to the depositor shall be treated as creating a separate obligation subject to the rules of subdivision (ii) of this subparagraph.

(ii) *Computation.* For purposes of computing the original issue discount to

be included as interest in the depositor's gross income under section 1232(a)(3) with respect to such separate obligation—

- (a) The issue price shall be zero,
- (b) The date of original issue shall be the date on which the contingent interest is credited to the depositor's account and begins to earn interest,
- (c) The date of maturity shall be the fixed maturity date of the deposit, and
- (d) The stated redemption price at maturity is the sum of the amount of such contingent interest plus any interest to be earned thereon at the guaranteed minimum rate of compound interest between such dates of original issue and maturity.

PAR. 17. Section 1.1232-4 is amended by revising such section to read as follows:

§ 1.1232-4 Obligations with excess coupons detached.

Section 1232(c) provides that if an obligation which is issued at any time with interest coupons—

- (a) Is purchased after August 16, 1954, and before January 1, 1958, and the purchaser does not receive all the coupons which first become payable more than 12 months after the date of the purchase, or
- (b) Is purchased after December 31, 1957, and the purchaser does not receive all the coupons which first become payable after the date of purchase,

any gain on the later sale or other disposition of the obligation by the purchaser (or by a transferee of the purchaser whose basis is determined by reference to the basis of the obligation in the hands of the purchaser) shall be treated as ordinary income to the extent that the fair market value of the obligation (determined as of the time of the purchase) with coupons attached exceeds the purchase price. If both the preceding sentence and section 1232(a)(2) apply with respect to the gain realized on the retirement or other disposition of an obligation, then section 1232(a)(2) shall apply only with respect to that part of the gain to which the preceding sentence does not apply. For example, a \$100 bond which sells at \$90 with all its coupons attached is purchased by A for \$80 with 3 years' coupons detached. Three years later, A sells the bond for \$92. The first \$10 of the \$12 profit is taxable as ordinary income. The remaining \$2 gain is taxable either as ordinary income or as long-term capital gain, depending upon the application of section 1232(a)(2). Pursuant to section 7851(a)(1)(C), the regulations prescribed in this section shall also apply to taxable years beginning before January 1, 1954, and ending after December 31, 1953, although such years are subject to the Internal Revenue Code of 1939.

PAR. 18. Section 1.6049 is amended by revising subsections (a)(1) and (c) of section 6049 and the historical note to read as follows:

§ 1.6049 Statutory provisions; returns regarding payments of interest.

SEC. 6049. *Returns regarding payments of interest—(a) Requirement of reporting—(1) In general. Every person—*

- (A) Who makes payments of interest (as defined in subsection (b)) aggregating \$10 or more to any other person during any calendar year,
- (B) Who receives payments of interest as a nominee and who makes payments aggregating \$10 or more during any calendar year to any other person with respect to the interest so received, or
- (C) Which is a corporation that has outstanding any bond, debenture, note, or certificate or other evidence of indebtedness in registered form as to which there is during any calendar year an amount of original issue discount aggregating \$10 or more includible in the gross income of any holder under section 1232(a)(3) without regard to subparagraph (B) thereof,

shall make a return according to the forms or regulations prescribed by the Secretary or his delegate, setting forth the aggregate amount of such payments and such aggregate amount includible in the gross income of any holder and the name and address of the person to whom paid or such holder.

(c) *Statements to be furnished to persons with respect to whom information is furnished.* Every person making a return under subsection (a)(1) shall furnish to each person whose name is set forth in such return a written statement showing—

- (1) The name and address of the person making such return, and
- (2) The aggregate amount of payments to, or the aggregate amount includible in the gross income of, the person as shown on such return.

The written statement required under the preceding sentence shall be furnished to the person on or before January 31 of the year following the calendar year for which the return under subsection (a)(1) was made. No statement shall be required to be furnished to any person under this subsection if the aggregate amount of payments to, or the aggregate amount includible in the gross income of, such person shown on the return made with respect to subparagraph (A), (B), or (C), as the case may be, of subsection (a)(1) is less than \$10.

[Sec. 6049 as added by sec. 19(c), Rev. Act 1952 (76 Stat. 1055); amended by sec. 413 (c) and (d), Tax Reform Act 1969 (83 Stat. 611, 612)]

PAR. 19. Section 1.6049-1 is amended by revising the heading, paragraph (a) is amended by revising so much of subparagraph (1) as follows subdivision (i), by revising subparagraph (2) and (4), and by adding a new subparagraph (5), and paragraphs (b) and (c) are amended by revising each of them. Such amended and revised provisions read as follows:

§ 1.6049-1 Returns of information as to interest paid in calendar years after 1962 and original issue discount includible in gross income for calendar years after 1970.

- (a) *Requirement of reporting—(1) In general. . . .*
- (ii) (a) Every person which is a corporation that has outstanding any bond, debenture, note, or certificate or other

evidence of indebtedness (referred to in this section and § 1.6049-2 as an obligation) in "registered form" (as defined in paragraph (d) of § 1.6049-2) issued after May 27, 1969 (other than an obligation issued by a corporation pursuant to a written commitment which was binding on May 27, 1969, and at all times thereafter), as to which there is during any calendar year after 1970 an amount of original issue discount (as defined in § 1.6049-2) aggregating \$10 or more includible as interest in the gross income for such calendar year of any holder (determined, if semiannual record date) reporting is being used under (b)(1) of this subdivision, by treating each holder as holding the obligation on every day it was outstanding during the calendar year, shall make an information return on Forms 1096 and 1099-OID for such calendar year showing the following:

(1) The name and address of each record holder for whom such aggregate amount of original issue discount is \$10 or more and, for calendar years subsequent to 1972, the account, serial, or other identifying number of each obligation for which a return is being made.

(2) The aggregate amount of original issue discount includible by each such holder for the period during the calendar year for which the return is made (or, if the aggregation rules of (b)(2) of this subdivision are being used, that he held the obligations). If however, the semiannual record date reporting rules are being used under (b)(1) of this subdivision, such aggregate amount shall be determined by treating each such record date holder as if he held each such obligation on every day it was outstanding during the calendar year. For purposes of this section, an obligation shall be considered to be outstanding from the date of original issue (as defined in paragraph (b)(3) of § 1.1232-3). In the case of a time deposit open account arrangement to which paragraph (e)(5) of § 1.1232-3A applies, for example, the amount to be shown under this subdivision (2) on the Forms 1096 and 1099-OID is the sum (computed under such paragraph (e)(5)) of the amounts separately computed for each deposit made pursuant to the arrangement.

(3) The issue price of the obligation (as defined in paragraph (b)(2) of § 1.1232-3), except in the case of such a time deposit open account arrangement,

(4) The stated redemption price of the obligation at maturity (as defined in paragraph (b)(1)(iii) of § 1.1232-3), except in the case of such a time deposit open account arrangement,

(5) The ratable monthly portion of original issue discount with respect to the obligation as defined in section 1232(a)(3)(A) (determined without regard to a reduction for a purchase allowance or whether the holder purchased at a premium), except in the case of such a time deposit open account arrangement,

(6) The name and address of the person filing the form,

(7) Such other information as is required by the form, and

(8) The sum, for all such holders of the aggregate amounts of such original issue discount includible for such calendar year for each such holder.

(b) With respect to any obligation (other than an obligation to which paragraph (e) of § 1.1232-3A applies relating to deposits in banks and similar financial institutions), the issuing corporation (or an agent acting on its behalf)—

(1) Shall be permitted (until this subdivision (b) (1) is amended) to prepare a Form 1099-OID only for each person who is a holder of record of the obligation on the semiannual record date (if any) used by the corporation (or agent) for the payment of stated interest or, if there is no such date, the semiannual record dates shall be considered to be June 30, and December 31.

(2) Shall be permitted to aggregate all original issue discount with respect to 2 or more obligations of the same issue for which the amounts specified in (a) (2), (a) (3), (a) (4), and (a) (5) of this subdivision are proportional and, therefore, may file one Form 1099-OID for all such obligations being aggregated, except that for calendar year 1971 this aggregation rule shall apply only where such specified amounts are identical. For an illustration of proportional aggregation, see example (4) in (d) of this subdivision.

(c) In any case in which any one holder of a particular obligation for the calendar year held such obligation on more than one record date, only one Form 1099-OID shall be filed for that year with respect to that holder and that obligation. This provision applies only in the case in which any corporation prepares Forms 1099-OID in accordance with the record date reporting rule of (b) (1) of this subdivision.

(d) The provisions of this subdivision (ii) may be illustrated by the following examples:

Example (1). On January 1, 1971, a corporation issued a 10-year bond in registered form which pays stated interest to the holder of record on June 30 and December 31. The bond has an issue price (as defined in paragraph (b) (2) of § 1.1232-3) of \$7,600, a stated redemption price (as defined in paragraph (b) (1) of § 1.1232-3) at maturity of \$10,000, and a ratable monthly portion of original issue discount (as defined in section 1232(a) (3) (A)) of \$20. The corporation's books indicate that A was the holder of record on June 30, 1971, and B was the holder on December 31, 1971. Under (b) (1) of this subdivision, the corporation is permitted to file separate Forms 1099-OID for both A and B showing, on each form, all items required by (a) of this subdivision, including the total original issue discount of \$240 for the entire calendar year (which includes original issue discount for all holders), the issue price of \$7,600, the stated redemption price at maturity of \$10,000, and the ratable monthly portion of original issue discount of \$20.

Example (2). Assume the facts stated in Example (1), except that A is recorded on the books of the corporation as holding the bond on June 30 and December 31, 1971. The corporation shall complete and file only one Form 1099-OID for A.

Example (3). Assume the facts stated in Example (1), except that the books of the corporation show that A held 2 of the bonds at all times in 1971. The amounts of the items listed in (a) (2), (a) (3), (a) (4), and

(a) (5) of this subdivision are identical for the 2 bonds. Under (b) (2) of this subdivision, the corporation is permitted to treat the 2 bonds as one for purposes of completing and filing a Form 1099-OID for 1971 and aggregate the amounts being reported.

Example (4). On January 1, 1972, a corporation issued to C 3 bonds in registered form of the same issue with stated redemption prices of \$1,000, \$5,000, and \$10,000. The aggregate amounts of original issue discount for each year, the issue prices, the stated redemption prices, and the monthly portions of original issue discount are the same for each \$1,000 of stated redemption price. Thus, all relevant amounts for any one bond are proportional to such amounts for any other bond. Therefore, so long as C holds the bonds the corporation shall be permitted to aggregate on one Form 1099-OID all original issue discount with respect to such obligations in accordance with (b) (2) of this subdivision.

Example (5). On June 1, 1971, a corporation issues a 10-year bond to D, for which the ratable monthly portion of original issue discount is \$10. For 1971, the corporation uses the record date reporting system permitted by (b) (1) of this subdivision. The corporation's books show that E held the bond on June 30, 1971, and that F held the bond on December 31, 1971, the dates on which the corporation pays stated interest on the bond. The corporation shall file a Form 1099-OID for both E and F showing on each form the aggregate amount of original issue discount includible for 1971 of \$70 since E and F are each treated as if each held the bond every day it was outstanding and it was outstanding 7 months in 1971. As to D, the corporation is not required to file a Form 1099-OID since D did not hold the bond on either of the 2 record dates.

(iii) Every person who during a calendar year after 1962 receives payments of interest as a nominee on behalf of another person aggregating \$10 or more shall make an information return on Forms 1096 and 1087 for such calendar year showing the aggregate amount of such interest, the name and address of the person on whose behalf received, the total of such interest received on behalf of all persons, and such other information as is required by the forms.

(iv) Except with respect to an obligation to which paragraph (e) of § 1.1232-3A applies (relating to deposits in banks and similar financial institutions), every person who is a nominee on behalf of the actual owner of an obligation as to which there is original issue discount aggregating \$10 or more includible in the gross income of such owner during a calendar year after 1970, regardless of whether he receives a Form 1099-OID with respect to such discount, shall make an information return on Forms 1096 and 1087-OID for such calendar year showing in the manner prescribed on such forms the same information for the actual owner as is required or permitted in subdivision (ii) of this subparagraph for the record holder.

(v) Notwithstanding the provisions of subdivisions (iii) and (iv) of this subparagraph, the filing of Form 1087 or Form 1087-OID is not required if—

(a) The record owner is required to file a fiduciary return on Form 1041 disclosing the name, address, and identifying number of the actual owner;

(b) The record owner is a nominee of a banking institution or trust company exercising trust powers, and such banking institution or trust company is required to file a fiduciary return on Form 1041 disclosing the name, address, and identifying number of the actual owner; or

(c) The record owner is a banking institution or trust company exercising trust powers, or a nominee thereof, and the actual owner is an organization exempt from taxation under section 501(c)(3) for which such banking institution or trust company files an annual return,

but only if the name, address, and identifying number of the record owner are included on or with the Form 1041 fiduciary return filed for the estate or trust or the annual return filed for the tax exempt organization.

(2) *Definitions.* (i) The term "person" when used in this section does not include the United States, a State, the District of Columbia, a foreign government, a political subdivision of a State or of a foreign government, or an international organization. Therefore, interest paid by or to one of these entities need not be reported. Similarly, original issue discount in respect of an obligation issued by or to one of these entities need not be reported.

(ii) For purposes of this section, a person who receives interest shall be considered to have received it as a nominee if he is not the actual owner of such interest and if he was required under § 1.6109-1 to furnish his identifying number to the payer of the interest (or would have been so required if the total of such interest for the year had been \$10 or more), and such number was (or would have been) required to be included on an information return filed by the payer with respect to the interest. However, a person shall not be considered to be a nominee as to any portion of an interest payment which is actually owned by another person whose name is also shown on the information return filed by the payer or nominee with respect to such interest payment. Thus, in the case of a savings account jointly owned by a husband and wife, the husband will not be considered as receiving any portion of the interest on that account as a nominee for his wife if his wife's name is included on the information return filed by the payer with respect to the interest.

(iii) For purposes of this section, in the case of a person who receives a Form 1099-OID, the determination of who is considered a nominee shall be made in a manner consistent with the principles of subdivision (ii) of this subparagraph.

(iv) For purposes of this section and § 1.6049-3, the term "Form 1099-OID" means the appropriate Form 1099 for original issue discount prescribed for the calendar year.

(4) *Determination of person by whom original issue discount is includible or for whom a Form 1099-OID showing original issue discount is received.* For purposes of applying the provisions of this section,

the determination of the person by whom original issue discount is includible or for whom a Form 1099-OID is received shall be made in a manner consistent with the principles of subparagraph (3) of this paragraph.

(5) *Inclusion of other payments.* The Form 1099 filed by any person with respect to payments of interest to another person during a calendar year prior to 1972 may, at the election of the maker, include payments other than interest made by him to such other person during such year which are required to be reported on Form 1099. Similarly, the Form 1087 filed by a nominee with respect to payments of interest received by him on behalf of any other person during a calendar year prior to 1972 may include payments of dividends received by him on behalf of such person during such year which are required to be reported on Form 1087. However, except as provided in subparagraph (1) (ii) (b) of this paragraph, a separate Form 1087-OID or 1099-OID shall be filed for each obligation in respect of which original issue discount is required to be reported for any calendar year after 1970. In addition, any person required to report payments on both Forms 1087, 1087-OID, 1099, and 1099-OID, for any calendar year may use one Form 1096 to summarize and transmit such forms.

(b) *When payment deemed made.* For purposes of section 6049, interest is deemed to have been paid when it is credited or set apart to a person without any substantial limitation or restriction as to the time or manner of payment or condition upon which payment is to be made, and is made available to him so that it may be drawn at any time, and its receipt brought within his own control and disposition.

(c) *Time and place for filing.*—(1) *Payment of interest.* The returns required under this section for any calendar year for the payment of interest shall be filed after September 30 of such year, but not before the payer's final payment for the year, and on or before February 28 of the following year with any of the Internal Revenue Service Centers, the addresses of which are listed in the instructions for Form 1096. For extensions of time for filing returns under this section, see § 1.6081-1.

(2) *Original issue discount.* (i) The returns required under this section for any calendar year for original issue discount shall be filed after December 31 of such year and on or before February 28 of the following year with any of the Internal Revenue Service Centers, the addresses of which are listed in the instructions for Form 1096. For extensions of time for filing returns under this section, see § 1.6081-1.

(ii) The time for filing returns for the calendar year 1971 required under this section for original issue discount in respect of obligations to which paragraph (e) of § 1.1232-3A applies (relating to deposits in banks and other similar financial institutions) is extended to April 15, 1972.

PAR. 20. Section 1.6049-2 is amended by revising the heading thereof, by revising the heading of paragraph (a), by revising so much of paragraph (a) as precedes subparagraph (2), by adding a new paragraph (b) (6) immediately after paragraph (b) (5), and by adding a new paragraph (c) immediately after paragraph (b). Such revised and added provisions read as follows:

§ 1.6049-2 Interest and original issue discount subject to reporting.

(a) *Interest in general.* Except as provided in paragraph (b) of this section, the term "interest" when used in this section and §§ 1.6049-1 and 1.6049-3 means:

(1) Interest on evidences of indebtedness issued by a corporation in "registered form" (as defined in paragraph (d) of this section). The phrase "evidences of indebtedness" includes bond, debentures, notes, certificates and other similar instruments regardless of how denominated.

(b) *Exceptions.* . . .

(6) Any amount which is subject to reporting as original issue discount.

(c) *Original issue discount.*—(1) *In general.* The term "original issue discount" when used in this section and §§ 1.6049-1 and 1.6049-3 means original issue discount subject to the ratable inclusion rules of paragraph (a) of § 1.1232-3A, determined without regard to any reduction by reason of a purchase allowance under paragraph (a) (2) (ii) of § 1.1232-3A or a purchase at a premium as defined in paragraph (d) (2) of § 1.1232-3.

(2) *Coordination with interest reporting.* In the case of an obligation issued after May 27, 1969 (other than an obligation issued pursuant to a written commitment which was binding on May 27, 1969, and at all times thereafter), original issue discount which is not subject to the ratable inclusion rules is interest within the meaning of paragraph (a) of this section and original issue discount which is subject to the ratable inclusion rules is not interest within the meaning of such paragraph (a). Thus, for example, if such an obligation has a fixed maturity date not exceeding one year from the date of original issue (as defined in paragraph (b) (3) of § 1.1232-3), the amount of the original issue discount in respect of the obligation shall be reported as interest upon its retirement.

(3) *Exceptions.* Reporting of original issue discount is not required in respect of an obligation which paragraph (b) (2) of this section except from interest reporting.

(d) *Definition of "in registered form."* For purposes of § 1.6049-1 and this section, an evidence of indebtedness is in registered form if it is registered as to both principal and interest (or, for purposes of reporting with respect to original issue discount, if it is registered as to

principal) and if its transfer must be effected by the surrender of the old instrument and either the reissuance by the corporation of the old instrument to the new holder or the issuance by the corporation of a new instrument to the new holder.

PAR. 21. Section 1.6049-3 is amended by revising the heading and paragraphs (a), (b), and (c) (1) to read as follows:

§ 1.6049-3 Statements to recipients of interest payments and holders of obligations to which there is attributed original issue discount.

(a) *Requirement.* Every person filing (1) a Form 1099 or 1087 under section 6049(a) (1) and § 1.6049-1 with respect to payments of interest or (2) a Form 1099-OID or 1087-OID with respect to original issue discount includible in gross income, shall furnish to the person whose identifying number is (or should be) shown on the form a written statement showing the information required by paragraph (b) of this section. With respect to interest, no statement is required to be furnished under section 6049(c) and this section to any person if the aggregate of the payments to (or received on behalf of) such person shown on the form would be less than \$10. With respect to original issue discount, no statement is required to be furnished under section 6049(c) and this section to any person if the aggregate amount of original issue discount on the statement to such person with respect to the obligation would be less than \$10.

(b) *Form of statement.*—(1) *In general.* The written statement required to be furnished to a person under paragraph (a) of this section shall show—

(i) With respect to payments of interest (as defined in § 1.6049-2) aggregating \$10 or more to any person during a calendar year after 1962—

(a) The aggregate amount of payments shown on the Form 1099 or 1087 as having been made to (or received on behalf of) such person and a legend stating that such amount is being reported to the Internal Revenue Service, and

(b) The name and address of the person filing the form, and

(ii) With respect to original issue discount (as defined in § 1.6049-2) which would aggregate \$10 or more on the statement to the holder during a calendar year after 1970—

(a) The aggregate amount or original issue discount includible by (or on behalf of) such person with respect to the obligation, as shown on Form 1099-OID or Form 1087-OID for such calendar year (determined by applying the rules of paragraph (a) (1) (ii) of § 1.6049-1 for purposes of completing either form),

(b) All other items shown on such Form 1099-OID or Form 1087-OID for such calendar year (so determined), and

(c) A legend stating that such amount and such items are being reported to the Internal Revenue Service.

(2) *Special rule.* The requirements of this section for the furnishing of a statement to any person, including the legend requirement of this paragraph, may be

met by the furnishing to such person of a copy of the Form 1099, 1099-OID, 1087, or 1087-OID filed pursuant to § 1.6049-1, or a reasonable facsimile thereof, in respect of such person. However, in the case of Form 1087-OID or 1099-OID, a copy of the instructions must also be sent to such person. A statement shall be considered to be furnished to a person within the meaning of this section if it is mailed to such person at his last known address.

(c) *Time for furnishing statements.*

(1) *In general.*—(i) *Payment of interest.* Each statement required by this section to be furnished to any person for a calendar year for the payment of interest shall be furnished to such person after November 30 of the year and on or before January 31 of the following year, but no statement may be furnished before the final interest payment for the calendar year has been paid. However, the statement may be furnished at any time after September 30 if it is furnished with the final interest payment for the calendar year.

(ii) *Original issue discount.* (a) Each statement required by this section to be furnished to any person for a calendar year for original issue discount shall be furnished to such person after December 31 of the year and on or before January 31 of the following year.

(b) Each statement required by this section to be furnished to any person for the calendar year 1971 for original issue discount in respect of obligations to which paragraph (e) of § 1.1232-3A applies (relating to deposits in banks and other similar financial institutions) is extended to March 15, 1972.

PAR. 22. Section 301.6049 is amended by revising subsections (a) (1) and (c) of section 6049 and the historical note to read as follows:

§ 301.6049 *Statutory provisions; returns regarding payments of interest.*

(Sec. 6049. *Returns regarding payments of interest.*—(a) *Requirement of reporting.*—(1) *In general.* Every person—

(A) Who makes payments of interest (as defined in subsection (b)) aggregating \$10 or more to any other person during any calendar year,

(B) Who receives payments of interest as a nominee and who makes payments aggregating \$10 or more during any calendar year to any other person with respect to the interest so received, or

(C) Which is a corporation that has outstanding any bond, debenture, note, or certificate or other evidence of indebtedness in registered form as to which there is during any calendar year an amount of original issue discount aggregating \$10 or more includible in the gross income of any holder under section 1232(a)(3) without regard to subparagraph (B) thereof,

shall make a return according to the forms or regulations prescribed by the Secretary or his delegate, setting forth the aggregate amount of such payments and such aggregate amount includible in the gross income of any holder and the name and address of the person to whom paid or such holder.

(c) *Statements to be furnished to persons with respect to whom information is furnished.* Every person making a return under

subsection (a) (1) shall furnish to each person whose name is set forth in such return a written statement showing—

(1) The name and address of the person making such return, and

(2) The aggregate amount of payments to, or the aggregate amount includible in the gross income of, the person as shown on such return.

The written statement required under the preceding sentence shall be furnished to the person on or before January 31 of the year following the calendar year for which the return under subsection (a) (1) was made. No statement shall be required to be furnished to any person under this subsection if the aggregate amount of payments to, or the aggregate amount includible in the gross income of, such person shown on the return made with respect to subparagraph (A), (B), or (C), as the case may be, of subsection (a) (1) is less than \$10.

[Sec. 6049 as added by sec. 19(c), Rev. Act 1962 (76 Stat. 1055); amended by sec. 413 (c) and (d), Tax Reform Act 1969 (83 Stat. 611, 612)]

[FR Doc. 71-18982 Filed 12-27-71; 8:52 am]

Title 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

[Docket No. 19269; FCC 71-1282]

PART 73—RADIO BROADCAST SERVICES

Equal Employment Opportunities

Report and order. In the matter of amendment of part VI of FCC Forms 301, 303, 309, 311, 314, 315, 340 and 342, and adding the equal employment program filing requirement to Commission §§ 73.125, 73.301, 73.599, 73.680, and 73.793 Docket No. 19269, RM-1722.

1. On December 4, 1970, the National Organization for Women (NOW) filed a petition for rule making (RM-1722) asking that broadcast licensees be required to file with the Commission programs designed to insure equal employment opportunities for women. It was requested that we include women in section VI of various broadcast application forms (FCC Forms 301, 303, 309, 311, 314, 315, 340, and 342), which presently provides that licensees shall file equal employment opportunity programs designed to provide equal employment opportunities for Negroes, orientals, American Indians, and Spanish-surnamed Americans. NOW also asks that the filing requirement be added to the Commission's broadcast rules concerning equal employment opportunities (47 CFR 73.125, 73.301, 73.599, 73.680, and 73.793). On June 28, 1971, the Commission released a notice of proposed rule making (30 FCC 2d 318, 36 F.R. 12542) soliciting comment on the NOW proposal.

2. A substantial number of comments were filed in response to the NOW petition and to the notice of proposed rule making. Almost all of the comments express strong support for the proposal. The proposal is opposed by the National Association of Broadcasters (NAB) and

Mrs. Virginia F. Pate, president and general manager, The Chesapeake Broadcasting Corp.

3. The NAB argues that licensees are already required to establish equal employment opportunity programs designed to prevent discrimination in employment on the basis of sex and, in effect, that nothing other than additional burden for the licensee is accomplished by requiring that specific programs be filed with the Commission. Mrs. Pate, commenting as an individual long associated with broadcasting, takes essentially the same position. The NAB maintains that no pattern of discrimination against women in the broadcasting industry has been established. It asserts further that a specific program cannot be drawn up for every religious, racial or national origin subgroup, that a line must be drawn somewhere, and that it should be drawn to exclude women from the filing requirement. As for adding the filing requirement to the rules, the NAB states that the provisions of section VI are set forth as guidelines, that flexibility in their application was intended, and that they are insufficiently precise to be stated as rules. In addition, it maintains that adding section VI to the rules will not enhance its availability to the public.

4. We agree fully with the NAB that specific equal employment opportunity programs cannot be developed for every conceivable group or subgroup. In considering a requirement of specific programs and reporting requirements, it is necessary to focus on those groups which comprise a substantial portion of the population and which have in the past suffered from discrimination in employment. Women, however, clearly come within the confines of these criteria. They constitute over 50 percent of the population, and the history of employment discrimination against women is amply demonstrated by the comments in this proceeding. It is fully appropriate, in our judgment, for the attention of broadcasters to be drawn to the task of providing equal employment opportunities for women as well as for Negroes, orientals, American Indians and Spanish-surnamed Americans. We do not believe it follows, as the NAB suggests, that the extension of the application of section VI to women will require its extension to such groups as Armenians and Tasmanians. The guidelines set out in section VI are, as is pointed out, flexible in their application to particular situations, and we do not intend to change their character in this respect. The focus upon particular groups is achieved by following the guidelines (or taking other measures, if more appropriate) for those groups and is reinforced by the requirement that the programs be articulated and filed with the Commission, where they are subject to scrutiny by the Commission and the public. We see no undue burden which would outweigh the substantial public benefit.

5. While we consider it appropriate to supplement the regulations dealing with equal employment opportunities by inserting a reference to section VI of the application forms, we do not consider it